THE CONSTITUTION EXPLAINED

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HARRY ATWOOD

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BY

HARRY ATWOOD

DESTINY PUBLISHERS

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PUBLISHER'S FOREWORD

Most of the States in the Union now require that the Constitution of the United States be studied in the schools. Even in the States where no formal requirement exists, there is an emphatic increase in the attention given to such study.

In October, 1924, Dr. John J. Tigert, United States Commissioner of Education, made the challenging statement:

> I do not believe there are more than a very limited number of persons, perhaps a hundred, who really know what is in the Constitution of the United States.

The report of the Committee on American Citizenship, presented at the meeting of the American Bar Association, Denver, Colorado, July 14–16, 1926, contained the following remarkable confession:

> Lawyers are being graduated from our law schools by the thousands who have little knowledge of the Constitution. When organizations seek a lawyer to instruct them on the Constitution they find it nearly impossible to secure one competent.

These are only two of many such statements, but they are sufficient to indicate how difficult, yet essential, it is to select an author equipped to write an authentic textbook on this important subject.

The contents of this book and other abundant evidence point to Mr. Atwood as such an author. Many years ago he became interested in the Constitution as a

subject for research and interpretation. He gave up his law practice in Chicago in 1918 to devote his entire time not only to the Constitution itself but to the vast amount of historical material that throws light on its making and its meaning. He has spoken to hundreds of audiences in all parts of the country on the Constitution, and is today recognized as an outstanding authority.

The Constitution Explained presents the result of Mr. Atwood's many years of research and deliberation.

INTRODUCTION

Slowly but surely the people of the United States are beginning to realize the priceless value of the Constitution of the United States and the danger of carelessly departing from its spirit and provisions.

Throughout the country, in our schools, clubs, civic and commercial associations, forums, and churches, the Constitution is being made a live subject for discussion and study.

There is a growing and urgent demand for a book setting forth for both young and old, as this book attempts to do, in simple and non-technical language, the Constitution, its background, its plan and purpose, and its constituent elements.

September 17, 1926, marked the one hundred and thirty-ninth anniversary of the completion and signing of the Constitution. It is now the oldest written constitution still functioning in the world. It is a fact worthy of note that, in spite of the tremendous growth of our country and the epochal changes which it has undergone, this historic document, marvelous in its brevity and simplicity, lives on, as fit for its tasks today as it was the day it was signed at Philadelphia in 1787.

In this effort to help bring about a better understanding of the meaning, value, and importance of the Constitution, the essentials for making it an interesting and fascinating study have been kept constantly in mind.

It is essential to realize that from a condition of chaos and anarchy preceding the Constitution there came

about suddenly a wondrous transformation to orderly progress, as a result of its adoption.

It is essential to know something of the order of events which led up to the Constitutional Convention in order to form a clear conception of the ground upon which the Constitution was based.

It is essential to know something of the personalities of the men who wrote the Constitution, of their record in public life, and of their general equipment in ability and character for such an undertaking.

It is essential to understand something of the great task which confronted the delegates when they assembled at Philadelphia in 1787, of the difficulties and problems which they faced, and of how well they overcame and solved them.

It is equally essential to know something of the nature, character, and procedure of the Convention itself, one of the greatest assemblies for a governmental purpose ever held in the world's history.

It is essential to have in mind a meaningful definition of what the Constitution is and an analysis of its contents, so that its elements and provisions shall stand out clearly in the student's mind; and a realization that, while many of the factors that entered into the Constitution were already known, the selection and combination of these elements was a master achievement of vision, ability, and governmental genius, on the part of the delegates to the Convention.

It is most essential of all to take up the Constitution itself and study it section by section.

Prior to the framing of the Constitution, the problems of government were approached from the standpoint of protest and assertion. The framers of the Constitution approached these problems in terms of plan, purposes, powers, and restraints.

It is essential to realize that the Preamble is a most

accurate and comprehensive statement of the purposes of government.

It is important to know something of the structure of the three great coördinate branches of government which the Constitution provides — the legislative, the executive, and the judicial — and to understand what powers were vested in them and how those powers were distributed.

It is essential to know that the Constitution provides for a dual form of government, well balanced between the nation and the States, and to understand the restraints which were placed upon the United States, upon the individual States, and upon each of the three departments.

It is important to understand the general provisions in regard to amending the Constitution whenever necessary; the general grant of powers; the pledge of public officials, national and State, to uphold the Constitution; and forbidding the making of a religious test as a qualification for public office.

It is important to know something of the installation of the new government and of the amendments that have been added to the Constitution since it was ratified.

It is essential to perceive clearly that the Constitution established a strictly representative government, a republic, and sought to avoid the dangerous extremes of both autocracy and democracy.

It is essential to understand that the Constitution is the best model for the framing of new constitutions and the safest guide for judging of the merits or demerits of other constitutions.

It is of prime importance to know what portions of the Constitution have been modified or supplanted by amendments and what portions have fallen into disuse or become obsolete through time and change. Therefore, the text of the Constitution is so edited in this book

that those portions which have been modified or supplanted by amendment will appear in italics, followed by an explanation with quotations from the amendments that effected the changes; and such portions as have become obsolete through time and change will be placed in brackets.

It will be the aim of this book so to present all of these fundamental factors that the reader may gain a clear comprehension of the historical setting, the purpose and structure of the Constitution, and the plan of government which it provided.

It has been a temptation to comment at greater length on many of the provisions of the Constitution, but there has already been so much comment which is misleading that it is deemed advisable in this explanation of the Constitution so to arrange the questions that the larger portion of the answers will be found in the text of the Constitution itself. The provisions of the Constitution are so simply and clearly stated that lengthy comment is often more confusing than clarifying.

It is my hope that this book may develop a better understanding and a more affectionate regard for the sterling worth of our beneficent heritage, may inculcate a determination to guard against dangerous departures from the wise plan of government provided by the Constitution, and may stimulate a desire for further study.

H. A.

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THE CONSTITUTION EXPLAINED

CHAPTER I

THE WONDROUS TRANSFORMATION

In order to approach intelligently a consideration of the Constitution, it is necessary to have clearly in mind the conditions that prevailed in this country at the time of its adoption, so that we may judge justly and appreciate fully its remarkable effect upon a desperate situation.

The conclusive test of the work of individuals or institutions in any field of endeavor always is: What effect did it have upon existing conditions? There are few things in all history that will stand that test so well as does the Constitution of the United States.

The people who lived here prior to the writing of the Constitution tried fruitless experiments one after another and met with continuous failure until they were much at sea as to their future course. During the years immediately preceding the adoption of the Constitution the mobs drove our Congress from Philadelphia into New Jersey and " shot up " the court-houses in Massachusetts, and these events were illustrative of the general situation throughout the country with respect to law and order. Money was worth anywhere from two and a half cents on the dollar down to nothing, credit was ruined, trade paralyzed, and discipline at a low ebb. Anarchy, bankruptcy, and confusion prevailed.

Under such conditions of chaos and despair, fifty-five men met at Philadelphia and framed the Constitution. Almost immediately following its adoption order began

to come out of chaos, light out of darkness. Within five years we had credit round the world, law and order reigned supreme, and thoughtful men and women were asking: What was it that those men did that wrought this wonderful change?

Then there followed a hundred years of progress unparalleled in world history. There was provided, under the Constitution, a condition so attractive from the viewpoint of security and opportunity that people of all nations longed to settle in this country.

That rapid and beneficent transformation from chaos to orderly progress, brought about through the Constitution, is most significant. It is the crux of American history, a clear understanding of which gives to the Constitution its proper place in its relation to our almost miraculous progress in becoming a leading nation of the world.

It is impossible to get a clear concept of American history, or an understanding of the value and importance of the Constitution, without a thorough knowledge of the beneficent transformation that took place. This knowledge should be made available to all students of American history or civics, and impressed upon the minds of all foreigners before qualifying them for citizenship.

In order that there may be no doubt as to the truth of what might seem an extreme or exaggerated statement regarding the remarkable change at this crisis in American history, let us put George Washington on the witness stand. He was a man of exceptional poise, cautious and reliable in his statements, and he was the central and commanding figure of that mighty epoch.

It is not generally known that after Washington had given years of his early life as a young engineer surveying the Northwest Territory, amid the privations and dangers of the wilderness, after devoting more years to

helping develop the colony of Virginia, then to the great work of leading the Revolutionary forces to a successful issue against tremendous odds, and finally to endeavoring to help bring about a condition under which a government could function successfully, he reached a state of mental depression and despair bordering on melancholia:

The situation was so desperate and the problems so perplexing that during 1785, 1786, and the first part of 1787 — the years immediately preceding the writing of the Constitution — Washington's letters to his friends were filled with pathetic expressions of despair, telling them how futile had seemed the efforts of the past, how awful was the present, and how hopeless appeared the future.

He wrote numerous letters in a vein similar to the ones from which brief excerpts are quoted below. Remember that the Constitution was signed September 17, 1787.

On October 7, 1785, less than two years before the Constitution was signed, Washington wrote to James Warren:

> The wheels of government are clogged, and . . . we are descending into the vale of confusion and darkness.

This letter was written nearly ten years after the Declaration of Independence was issued, long after the Revolutionary War was over, and when there was no war threatening.

On August 1, 1786, a little over a year before the Constitution was signed, Washington wrote to John Jay, whom he afterwards appointed the first Chief Justice of the Supreme Court of the United States:

> Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own. . . . What, then, is to be

done? . . . Would to God, that wise measures may be taken in time to avert the consequences we have but too much reason to apprehend.

On November 5, 1786, about ten months before the Constitution was signed, Washington wrote to James Madison:

No day was ever more clouded than the present. . . . We are fast verging to anarchy and confusion. . . . How melancholy is the reflection. . . . What stronger evidence can be given of the want of energy in our government than these disorders? . . . A liberal and energetic constitution, well guarded and closely watched to prevent encroachments, might restore us.

On December 26, 1786, less than nine months before the Constitution was signed, Washington wrote to Henry Knox:

I feel, my dear General Knox, infinitely more than I can express to you, for the disorders, which have arisen in these states. Good God! who could have foreseen, or predicted them?

On February 3, 1787, about seven months before the Constitution was signed, Washington again wrote to Henry Knox:

If . . . any person had told me that there would have been such formidable rebellion as exists, I would have thought him a bedlamite, a fit subject for a madhouse.

Read again very carefully the foregoing excerpts, bearing in mind that Washington, when he was fifty-three and fifty-four years old, wrote them to his most intimate friends, describing the situation frankly as he saw it.

A little over three months after Washington wrote the letter of February 3, 1787, to General Knox, the authors of the Constitution met in convention at Philadelphia.

It took slightly more than four months to write the Constitution, almost a year to have it ratified by the States, and another year to set up the government under it; and yet, within three years, conditions had so changed and Washington had so recovered from his depression because of the beneficent effect of the Constitution that he began writing letters of cheer and hope to his friends.

On June 3, 1790, approximately three years from the time the Convention was called, Washington wrote to the Marquis de La Fayette:

> You have doubtless been informed, from time to time, of the happy progress of our affairs. The principal difficulties . . . seem in a great measure to have been surmounted. . . . Our revenues have been considerably more productive than it was imagined they would be. . . . I mention this to show the spirit of enterprise that prevails.

On March 19, 1791, Washington wrote again to La Fayette, as follows:

> Our country, my dear sir (and it is truly *yours*), is fast progressing in its political importance and social happiness.

On July 19, 1791, less than four years after the Constitution was signed, Washington wrote to Catherine Macaulay Graham:

> The United States enjoys a scene of prosperity and tranquillity under the new government, that could hardly have been hoped for.

This indicates clearly that Washington regarded the Constitution as being responsible for the prosperity and tranquillity which then prevailed, and as having set up a new government.

It would seem unquestionable that Washington recog-

nized that September 17, 1787, marked the birthday of this Republic, and it is significant, in this connection, that when Washington still had six months to serve as President he delivered his Farewell Address on September 17, 1796, which was the ninth anniversary of the signing of the Constitution.

On July 20, 1791, he wrote to David Humphreys:

> Tranquillity reigns among the people, with that disposition towards the general government, which is likely to preserve it. . . .
>
> Our public credit stands on that high ground which three years ago it would have been considered as a species of madness to have foretold.

Consider this statement carefully. In less than four years after the signing of the Constitution, Washington says that it would have been regarded as a species of madness to have foretold the transformation that had come to pass during that brief period of time.

Probably the history of the world reveals no other period of five years during which two sets of letters, describing two such totally different sets of conditions, could have truthfully been written. All historical evidence of that period confirms the description of conditions as set forth by Washington's letters.

What was it that happened between the writing of these two extraordinary sets of letters? Just this: The leading men of the country were studying the governments of history from the standpoint of cause and effect, conscious of the great opportunity confronting them, and realizing the solemn responsibility of creating a new form of government that would be equal to the historic occasion and serve for all time as a basis for solving the problems of government. As the result of their labors they brought forth the document which was character-

ized a century later by Gladstone, who served fifty-five years in the public life of Great Britain, as " the most wonderful work ever struck off at a given time by the brain and purpose of man."

QUESTIONS

1. What should we have clearly in mind when approaching a study of the Constitution?
2. What is the final test of the work of individuals or institutions?
3. How does the Constitution stand that test?
4. What happened prior to the adoption of the Constitution?
5. What did the mobs do?
6. What was money worth?
7. In what condition were credit and trade?
8. How many men met to write the Constitution?
9. Where did they meet?
10. What was the transformation that took place?
11. For what were the next hundred years notable?
12. What is necessary to gain a clear concept of American history or the value of the Constitution?
13. Why is George Washington a good witness?
14. What state of mind did Washington reach after years of effort?
15. What is the general tone of his letters in 1785, 1786, and the first part of 1787?
16. What did he say in his letter of October 7, 1785, to James Warren?
17. How long before the Constitution was signed was this letter written?
18. What did Washington say in his letter of August 1, 1786, to John Jay?
19. What did he say in his letter of November 5, 1786, to James Madison?
20. What did Washington say in his two letters to General Henry Knox?

21. How long after Washington's second letter to General Knox did the Constitutional Convention assemble?
22. How long did it take to write the Constitution?
23. What change came into Washington's letters within three years after the writing of the Constitution?
24. What did Washington say in his letters of June 3, 1790, and March 19, 1791, to General La Fayette?
25. What did he say in his letter to Catherine Macaulay Graham, July 19, 1791?
26. For what did he give the Constitution credit, according to his letter?
27. What is the significance of the date, September 17, 1787?
28. On what day did Washington deliver his Farewell Address?
29. What did he say in his letter of July 20, 1791, to David Humphreys?
30. What is unusual about the five-year period from 1786 to 1791?
31. What confirms the statements in Washington's letters?
32. What was it, briefly, that happened during this period?
33. What did Gladstone say of the Constitution after it had been tested for a hundred years?

CHAPTER II

EVENTS LEADING UP TO THE CONVENTION

Prior to the writing of our Constitution, the pendulum of government throughout history had been swinging back and forth from the mob to the monarch and from the monarch back to the mob. At no time had the pendulum of government been halted at the golden mean between those two extremes.

With this background of centuries of experimental failures in government, the early settlers lived here for a time as colonists of Great Britain under what was known as Colonial Government.

A colony is a body of persons forming a fixed settlement in foreign territory.

The first colony was located at Jamestown, Virginia, in 1607. Subsequently twelve other colonies were established from time to time at various places along the Atlantic coast, and all of the thirteen colonies were under the control of the British Parliament or King.

The colonies had little security for the passage of such laws as they wanted, and their political rights and privileges as British subjects were limited. Differences with regard to taxation and other matters gradually developed considerable discord. Resentment on the part of the Colonists finally resulted in armed resistance, and united the thirteen colonies in a common purpose for improving their conditions.

On September 5, 1774, representatives of the colonies met in the First Continental Congress at Philadelphia and adopted a Declaration of Rights and Grievances, to be presented to the King.

On May 10, 1775, there was a second meeting of the Continental Congress at Philadelphia, and John Hancock of Massachusetts was chosen president.

The representatives of the colonies voted to unite in resisting England and to raise an army for that purpose. The Second Congress appointed George Washington Commander-in-Chief of the Continental army, and he formally took command on July 3, 1775, at Boston under the famous elm near Harvard University.

As the war advanced, there was a growing determination on the part of the colonies for the political separation of America from England; and, on July 4, 1776, Congress formally adopted the Declaration of Independence that "these united colonies are, and of right ought to be, free and independent States."

In 1777, with a view to permanent union, Congress prepared the "Articles of Confederation and Perpetual Union between the States," and provided that the Articles should go into effect when they had received the assent of all of the thirteen States.

The Articles of Confederation did not go into effect until March, 1781, because Maryland did not give her consent until that time. Meantime, the Revolutionary War had progressed nearly to a successful conclusion; a preliminary Treaty of Peace was signed with Great Britain on November 30, 1782, and a final Treaty of Peace was signed on September 3, 1783.

The Continental Congress exercised a degree of directive authority from the time of its first meeting in 1774; but, even under the Articles of Confederation, it proved to be a weak government under which chaos and anarchy developed rapidly.

The great leaders who had won the long and arduous struggle for independence viewed the course of events with heartbreak and despair.

They were earnestly studying the governments of history from the standpoint of cause and effect, but could find very little to aid them as a guide in the establishment of a government that would provide a sound basis for orderly progress.

In the midst of gloom and despair, a welcome suggestion was made by Pelatiah Webster, who was born at Lebanon, Connecticut, in 1726, graduated at Yale in 1746, moved to Philadelphia in 1755, and became a successful business man as well as a profound student of political science.

In 1781, he made a suggestion to Congress, then sitting at Philadelphia, for the calling of a Continental Convention to draft an entirely new Constitution.

On February 16, 1783, he issued a pamphlet entitled *A Dissertation on the Political Union and Constitution of the Thirteen United States of North America,* outlining his plan for the new Constitution.

In this pamphlet, which he placed at the doors of Congress, he discussed with trenchant pen the chaotic conditions then prevailing, and insisted that they could be cured only by the adoption of a Constitution embodying the principles which he advocated.

He emphasized the vital necessity of giving the Federal government power to levy taxes and enforce its own laws. On this point he wrote with great feeling that

> if our Union is not worth this purchase, we must give it up — the nature of the thing does not admit of any other alternative. I contend that our Union is worth this purchase.

He proposed the division of the Federal government into three independent, coördinate departments — the legislative, the executive, and the judicial.

His plan provided for the vesting of the executive

power in a president, supported by a cabinet or council. He proposed a Congress to be divided into two houses,

> an upper and a lower house . . . with the concurrence of both necessary to every act . . . which would subject every act to two discussions before two distinct chambers of men . . . of equal authority in the decision. . . .

To Pelatiah Webster, then, belongs much credit for planting the germ of a more powerful union and foreshadowing the existence of the Constitution of the United States. Yet, if other equally public-spirited men had not taken up the task of saving the nation in this dark crisis of its history, Webster's plan of a Constitution, admirable as it was, would probably have dropped into oblivion.

Fortunately, while Pelatiah Webster's proposed plan of government was under consideration, three young men, Alexander Hamilton of New York, James Madison of Virginia, and Charles Pinckney of South Carolina, were members of the Continental Congress when, on April 28, 1783, a committee was appointed " on pending resolutions in favor of a general Convention."

These three men were made delegates by their respective States to the Constitutional Convention of 1787; and, in the meantime, each of them, inspired by the proposals of Pelatiah Webster, prepared a tentative draft of a Constitution, which reliable historians have said greatly aided in the formation of the Federal Constitution.

Washington was now advanced in age, and after many years of great hardship in the service of his country had retired to his estate at Mount Vernon, whence he viewed the governmental situation with growing alarm, as reflected in his letters.

In June, 1783, he issued a circular letter to the governors of the several States, in which he declared that

there should be lodged somewhere a supreme power to regulate the general concerns of the confederated republic, without which the Union cannot be of long duration.

Congress, however, in its weakness refused to take the initiative in urging any course of action upon the thirteen States.

Again Washington was to save the cause. On March 28, 1785, joint commissioners of Virginia and Maryland were invited to Washington's home at Mount Vernon to arrange an agreement between the two States regarding rights of navigation in Chesapeake Bay and the Potomac. This business being completed, the commissioners took up the consideration of certain other commercial problems affecting the States. It was soon realized that there could be no effective regulation of commerce with the States pulling in opposite directions. Washington pointed out clearly the necessity of a Union, in fact as well as in name.

The legislature of Maryland, on ratifying the compact concerning Chesapeake Bay and the Potomac, on December 5, 1785, sent a proposal to the legislature of Virginia, suggesting that commissioners representing all the States should meet for the purpose of enacting trade regulations.

This gave the Virginia legislature opportunity to put through a motion inviting the States to appoint commissioners to meet for such a trade conference, and the resolution was adopted on January 21, 1786, while conditions throughout the States were getting worse and worse.

The trade convention met at Annapolis in September, 1786. It was at this meeting that the way was finally cleared for the calling of a Constitutional Convention. A slight legal ground for this step was found in the act of New Jersey in authorizing its commissioners

to consider how far a uniform system in their commercial regulations, *and other important matters,* might be necessary to the common interest and permanent harmony of the several States; and to report such an act on the subject as, when ratified by them, would enable the United States in Congress assembled effectually to provide for the exigencies of the Union.

The Annapolis Conference, in an address drafted by Hamilton, reported:

Your commissioners submit an opinion, that the idea of extending the powers of their deputies to other objects than those of commerce, which has been adopted by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated with that of a future Convention. They are most naturally led to this conclusion as, in the course of their reflections on the subject, they have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the federal government, that to give it efficacy and to obviate questions and doubts concerning its precise nature and limits, may require a corresponding adjustment of other parts of the federal system.

As a result, there issued from the Annapolis trade conference the suggestion for a convention

to consider the situation of the United States, and devise such further provisions as should appear necessary to render the Constitution of the Federal Government adequate to the exigencies of the union, and to report to Congress such an act as, when agreed to by them and confirmed by the legislatures of every State, would effectually provide for the same.

This action was approved by the expiring Congress in a mild resolution adopted on February 21, 1787, reading:

It is expedient that on the second Monday in May next a convention of delegates, who shall have been appointed by

the several States, be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigency of the government and the preservation of the Union.

All the States, with the exception of Rhode Island, appointed delegates to the Constitutional Convention, and it is significant that the ablest and best men were selected for the important undertaking.

The instructions of the various States to their delegates were formal and specific. The instructions of Connecticut, which are typical of the others, read as follows:

State of Connecticut. (Seal.) At a General Assembly of the State of Connecticut in America, holden at Hartford on the second Thursday of May, Anno Domini 1787.

An Act for appointing Delegates to meet in a Convention of the States to be held at the City of Philadelphia on the second Monday of May instant.

Whereas the Congress of the United States by their Act of the twenty first of February 1787 have recommended that on the second Monday of May instant, a Convention of Delegates, who shall have been appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation.

Be it enacted by the Governor, Council and Representatives in General Court Assembled and by the Authority of the same.

That the Honorable William Samuel Johnson, Roger Sherman, and Oliver Ellsworth Esquires, be and they hereby are appointed Delegates to attend the said Convention, and are requested to proceed to the City of Philadelphia for that purpose without delay; And the said Delegates, and in case of sickness or accident, such one or more of them as shall actu-

ally attend the said Convention, is and are hereby authorized and empowered to Represent this State therein, and to confer with such Delegates appointed by the several States, for the purposes mentioned in the said Act of Congress that may be present and duly empowered to act in said Convention, and to discuss upon such Alterations and Provisions agreeable to the general principles of Republican Government as they shall think proper to render the federal Constitution adequate to the exigencies of Government and, the preservation of the Union; And they are further directed, pursuant to the said Act of Congress to report such alterations and provisions as may be agreed to by a majority of the United States represented in Convention to the Congress of the United States, and to the General Assembly of this State.

A true Copy of Record
Examd
By George Wyllys Secy.

QUESTIONS

1. What was the trend of government prior to 1787?
2. Under what type of government did the early settlers live?
3. What attitude developed among the colonists?
4. What happened on September 5, 1774?
5. What were some of the things done by the Second Continental Congress?
6. What important thing did that Congress do in 1777?
7. When did the Articles of Confederation go into effect, and with what results?
8. What was the attitude of the great leaders of that time?
9. Tell what you know about Pelatiah Webster.
10. What was his first suggestion to Congress in 1781?
11. What was the title of his epoch-making pamphlet of February 16, 1783?
12. What did he recommend as the only cure for the chaotic conditions?
13. What did he emphasize as the vital necessity?

14. Into what three departments did he propose dividing the Federal Government?
15. In what did Webster propose vesting the executive power?
16. In what way did he plan dividing Congress?
17. What credit belongs to Pelatiah Webster?
18. What three great men were in Congress about this time?
19. What committee was appointed by Congress on April 28, 1783?
20. What did the proposals of Pelatiah Webster inspire Hamilton and Madison and Pinckney to do?
21. Where was Washington at that time?
22. State the purport of Washington's circular letter of June, 1783.
23. Did Congress take any action toward calling a convention at this time?
24. For what purpose did the commissioners of Virginia and Maryland meet at Mount Vernon in 1785?
25. What did Washington point out in this conference?
26. What action followed in Maryland and Virginia?
27. Where did the trade convention meet in 1786?
28. What was the substance of Hamilton's address at this convention?
29. What was the recommendation issued by this convention?
30. How did Congress act on this suggestion?
31. How did the States respond?
32. What was the nature of the instructions issued to the delegates by their respective States?
33. What were the instructions of Connecticut?

CHAPTER III

THE DELEGATES AND THEIR TASK

When the Constitutional Convention met at Philadelphia in the late spring of 1787, there was assembled a group of notably superior men from the standpoint of mental acumen, political understanding, and moral courage.

Their lives had been devoted largely to study and thought concerning government and to rendering service to the government. They were politically minded in the sense that Edison and Marconi are electrically minded, that Socrates and Emerson were philosophically minded, that Mozart and Mendelssohn were musically minded, that Newton and Kepler were scientifically minded.

In order to illustrate and emphasize the high ability and the public spirit of the delegates, a brief summary of the public activities of each of them is presented in Appendix I, a study of which will yield many interesting facts in connection with these builders of the Constitution.

Thirty-nine of the delegates signed the Constitution, and of the other sixteen a number would have signed had they not been called home before the close of the Convention by illness, pressing family matters, or urgent business.

The oldest delegate was Benjamin Franklin of Pennsylvania, aged 81 years. The youngest delegate was Jonathan Dayton of New Jersey, aged 26 years. The average age of the delegates was about 43 years. All in all, age and youth were nicely balanced, and each con-

tributed its share to the great work which emerged from that historic Convention.

It is also interesting to note that twenty-five of the delegates were college graduates. In those days colleges and universities were few and far between, and a college education was difficult to acquire.

Over half of them rendered distinguished military service during the Revolutionary War. A large proportion of them had served in the Continental Congress, and a number of them had served an apprenticeship in constitution-making in their respective States.

Among the fifty-five delegates, we find lawyers, physicians, merchants, financiers, educators, planters, soldiers, and statesmen. The calling most largely represented was the legal profession, which had thirty-one members, including several who were also judges.

The important thing, however, is that these men had great natural ability and strength of character and that they were earnest and thorough students of government, whole-heartedly devoted to the public welfare.

Fully aware of the opportunity which confronted them and conscious of the mighty responsibility they had assumed, they approached the difficult task of working out a plan of government in the same calm, deliberative, and analytical manner that characterizes the physician in making a diagnosis, the engineer in making a design, or the scientist in unfolding a law of nature. It is remarkable that a group of men could face such a difficult and delicate task and meet it with such consummate skill.

In the first place, it should be remembered that their purpose was not merely to frame a Constitution for a single nation. Had that been the case, their task would have been greatly simplified.

They sought to formulate a plan for setting up a dual

government, well balanced between nation and States, which would operate directly upon the people as individuals.

They were familiar with the various confederacies and leagues in governmental history, but none of these leagues were worthy to serve as precedents for guidance.

The Articles of Confederation had proven a poor makeshift. They provided for no executive or judicial departments; Congress was composed of only one house, in which each State had but a single vote; and Congress had no power to levy taxes for the support of the government.

As we have seen, governmental conditions throughout the country were steadily going from bad to worse, until at the time just before the assembling of the Convention Washington and other great leaders who had sacrificed much in the cause of independence were in a state of mind bordering on despair when they contemplated the prospects of the country.

Each of the thirteen States of the original Union had had a separate origin, and each had its own individual traditions and local government to which it was strongly attached by the ties of sentiment and self-interest. A common danger had united them in the Revolution, but even the stress of war had not been sufficient to weld them into a nation. The Revolutionary War had been fought against the tyranny of a strongly centralized government — that of Great Britain, whose King, George III, had become in the eyes of the colonists the symbol of autocracy.

For this reason, the people of the young States were actuated by an instinctive suspicion of a central government with strong powers. Even the Articles of Confederation, weak as they were, had been accepted only after long delay and with little approval. It was not, in fact, until 1781, when the Revolution was practically

over, that the last of the States finally ratified the Articles of Confederation.

One of the greatest problems confronting the members of the Convention was caused by the fact that, besides their geographical diversities, the various States were also divided into two more or less antagonistic groups — the large States and the small States. On the one hand, the small States were just as jealous of their rights, just as earnestly determined to preserve their own individuality, as were the large States. They dreaded the thought of being swallowed up by the larger States or by a centralized government controlled by these larger States.

On the other hand, the larger States felt that, since they would be required to contribute a heavier share of the taxes for the support of a national government, they should enjoy greater powers and privileges.

Moreover, there was a sharp cleavage of economic interests. The Northern States were largely commercial and industrial, while the Southern States were agricultural, and the existence of slavery also greatly complicated the situation.

How to draw up a Constitution which would allay these fears, solve these problems, and provide a Constitution strong enough to sustain a real Federal government, strong enough to function adequately at home and command respect abroad, and at the same time protect the people of each State in the unimpaired enjoyment of their rights and privileges, under their own State constitution, was a task before which even the ablest men of the day might well have thrown up their hands in despair.

Thoughtful persons at the time expected that, unless almost a miracle should happen, the Union would break up into at least three confederations, composed of the New England, the Middle, and the Southern States re-

spectively. When we stop to consider the perplexing problems which the Convention successfully solved and the difficulties which it overcame or reconciled, we may well bow in reverence to those men who brought forth the Constitution.

The instructions of the States to the delegates were of a limited nature; namely, to amend the Articles of Confederation. These far-seeing men, however, realized that mere amendments to the pitiful Articles of Confederation would only postpone for a while the dissolution of the Union. They bravely assumed the responsibility, as duly chosen representatives, of devising a Constitution which might offer a permanent cure for the deplorable evils with which the country was afflicted, and to submit their work for approval to representatives of the people selected for that express purpose.

It is often said that such documents as Magna Charta, the Bill of Rights, and the Declaration of Independence were sources of the Federal Constitution. Such statements are misleading. Those documents were declarations and assertions, drawn up more or less hastily at a time of crisis, in protest against tyranny; while the Federal Constitution is *a statement of purposes and a plan* for setting up a mechanism to administer government.

The State constitutions which had been drawn up during the decade before 1787 contained many useful suggestions for the framers of the Federal Constitution, but the matter of harmonizing the powers of the States with the powers of the Federal government was pioneer work.

The great difficulty of the conflicting interests of the large and the small States was overcome by the happy expedient of making membership in the lower house of Congress proportional to population, and membership in the upper house equally distributed among all the

States, large and small, each being entitled to two Senators.

As a further assurance to the small States that their rights in this matter would never be violated, it was provided that equal representation in the Senate should at no time be taken away from any State without its consent. This is, in fact, the only provision of the Constitution which cannot be amended or modified by the will of a three-fourths majority of the States.

On the other hand, it was provided that all bills for raising revenue must originate in the lower house, where the larger States, which must pay the larger share of taxes, would have a voice in proportion to their population. Thus were the smaller States protected against the larger, and the larger against the smaller.

Furthermore, the powers which were delegated to Congress were carefully specified, but the Federal government was given all needful powers, among which was that of taxation, which are necessary for a government to maintain itself and function effectively.

Then, too, a finely adjusted system of checks and balances was worked out, so that, while each of the three great departments of the government — the legislative, the executive, and the judicial — should be supreme in its own sphere, restraints were provided so that no single department could abuse its powers without automatically bringing into operation forces which might effectually prevent it from overstepping its proper bounds. There were also included in the Constitution well balanced restraints upon the States and upon the United States.

QUESTIONS

1. What type of men wrote the Constitution?
2. In what sense were they politically minded?
3. What is presented in Appendix I?

4. How many of them signed the Constitution?
5. How many, for one reason or another, did not sign?
6. Who was the oldest man in the Convention and what was his age?
7. Who was the youngest member and what was his age?
8. What was the average age of the delegates?
9. How many college graduates were there in the Convention?
10. What proportion of them had Revolutionary War Records?
11. What was their experience in the Continental Congress and in framing State Constitutions?
12. Name some of the occupations represented in the Convention.
13. What profession was most largely represented?
14. What was the important characteristic of them all?
15. How did they meet their task?
16. What did they seek to do?
17. How did they regard former confederations?
18. Why were the Articles of Confederation inadequate?
19. What was the status of the thirteen original States?
20. Of what were they suspicious?
21. What was one of the greatest problems confronting the Convention?
22. What was the attitude of the small States?
23. What was the attitude of the larger States?
24. What was the economic situation?
25. What were the instructions to the delegates?
26. What did they actually do?
27. How does the Constitution differ from other documents frequently referred to as sources of the Constitution?
28. From what did they secure many helpful suggestions?
29. In what particular were they doing pioneer work?
30. How was the difficulty between the larger and smaller States overcome with regard to representation?
31. With regard to raising revenue?
32. What finely adjusted system was worked out by the delegates?

CHAPTER IV

THE CONSTITUTIONAL CONVENTION

Pursuant to the resolution passed by Congress on February 21, 1787, the Convention was called for the second Monday in the following May, which occurred on the fourteenth day of the month.

The several States responded to the resolution of Congress by appointing the fifty-five delegates of whom brief sketches are given in Appendix I. Owing to limited means of communication and difficulties of travel, many of the delegates could not reach Philadelphia on the day set for the opening of the Convention.

Washington entered the following statement in his diary on May 14:

> This being the day appointed for the meeting of the Convention such members of it as were in town assembled at the State House, where it was found that two States only were represented, viz., Virginia and Pennsylvania. Agreed to meet again tomorrow at 11 o'clock. . . .

Additional delegates from other States arrived from day to day, but there was not a sufficient number to make a quorum until May 25, when seven States were represented, and they proceeded to the establishment of rules for the government of the Convention.

Just before leaving home to attend the Convention, Washington had written a letter to James Madison in which he said:

> My wish is that the Convention may adopt no temporizing expedients, but probe the defects of the Constitution to the bottom and provide a radical cure, whether agreed to or not.

A conduct of this kind will stamp wisdom and dignity on their proceedings, and *hold up a light* which sooner or later will have its influence.

There were informal discussions from day to day among the delegates who were waiting for a sufficient number to assemble to make a quorum.

At one time one of the delegates suggested in substance that it would be necessary to incorporate in the Constitution some popular fallacies in which they did not believe in order to secure the adoption of the Constitution and attempt to gratify popular clamor. When Washington heard that unworthy suggestion of expediency he replied:

It is too probable that no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disapprove, how can we afterward defend our work? Let us *raise a standard* to which the wise and honest can repair; the event is in the hand of God.

Probably no public man in history has shown greater fidelity to what he conceived to be for the best interests of the people than Washington; but he understood clearly that what the people really want is good government. He knew that representatives could best serve their constituents by securing all possible information, and then, after thorough discussion and careful deliberation, following the dictates of their best judgment and their consciences without regard to what might for the moment seem to be favored or opposed by popular demand.

Those two expressions of Washington, "hold up a light" and "raise a standard," did much to fix the high plane of thought and the sensible method of discussion which characterized the proceedings of the Convention.

Washington had utter contempt for expediency, cowardice, or hypocrisy, which are the outstanding traits of the demagogue.

Fortunately, the Convention was composed of delegates most of whom were in perfect accord with Washington in regard to his attitude toward constructive thought and courageous procedure.

Washington entered the following statement in his diary on May 25:

> Another delegate comes in from the State of New Jersey. Made a quorum. And seven States being now represented the body was organized and I was called to the Chair by a unanimous vote. Major Jackson was appointed Secretary and a Com'ee. Consisting of Mr. Wythe, Mr. Hamilton and Mr. Ch. Pinckney chosen to prepare rules and regulations by which the convention should be governed. To give time for this it adjourned till Monday, 10 o'clock.

Rules of procedure were adopted to govern its deliberations, and the Convention remained in continuous session until September 17, with the exception of one adjournment of two days over the Fourth of July and another of ten days, from July 26 to August 6, to allow the Committee of Detail to prepare its report.

The Convention was held behind closed doors. Representatives of the press were not admitted, and there was no authentic discussion of its deliberations in the newspapers, because there was no way of getting information regarding the proceedings.

The delegates sought to provide the most favorable conditions for earnest concentration, frank discussion, and thorough deliberation. This is quite in contrast with the method of conducting the average convention in recent years, and we should remember that the beneficent results secured from that Convention are quite dif-

ferent from the type of results secured in assemblies where publicity, excitement, and expediency prevail.

The most important rules regarding secrecy were:

That members only be permitted to inspect the journal.

That nothing spoken in the House be printed, or otherwise published or communicated without leave.

The following illustrations evidence the seriousness with which the rule of secrecy was regarded:

In the early days of the Convention copies of a number of propositions pending before the Convention were presented to each member with the injunction to keep everything a profound secret. By accident, one of the members dropped his copy, which was found by Thomas Mifflin, who handed it to Washington.

At the close of the day when the motion for adjournment was made, Washington arose from the President's chair and previous to putting the question addressed the Convention as follows:

I am sorry to find that some one Member of this Body, has been so neglectful of the secrets of the Convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this Morning. I must entreat Gentlemen to be more careful, lest our transactions get into the News Papers, and disturb the public repose by premature speculations. I know not whose Paper it is, but there it is (throwing it down on the table), let him who owns it take it.

At the same time he bowed, picked up his hat, and quitted the room with a dignity so severe that everybody seemed alarmed. It is interesting to note that no delegate ever admitted ownership of that copy.

On the evening of July 14, 1787, several gentlemen called on Dr. Franklin at his home. He showed them a snake with two heads preserved in a large vial, which

had just been presented to him. He was about to use the two-headed snake as an illustration of an incident that occurred that day in the Convention, apparently forgetting for the moment that everything in the Convention was to be kept secret; but, when reminded of the rule of secrecy which had been agreed upon, he stopped abruptly and did not finish the story.

It was understood by the delegates that they would regard all that occurred as confidential, and in general that understanding was literally observed.

Several plans for a Constitution were submitted by the delegates from South Carolina, Virginia, and New Jersey and by Hamilton of New York, which were carefully considered in the Convention and proved helpful. They will make interesting reading as an illustration of how superior the Constitution prepared in the Convention is to any one of the plans submitted.

In the early days of the Convention many sharp differences of opinion arose regarding important questions involved in the making of the Constitution, and frequently there were heated debates, but the discussion invariably resulted in wise provisions for a basis of political procedure.

After the Convention had been holding sessions for about a week, Washington wrote to Jefferson, on May 30:

> The business of this convention is as yet too much in embryo to form any opinion of the conclusion. Much is expected from it by some; not much by others; and nothing by a few. That something is necessary, none will deny; for the situation of the general government, if it can be called a government, is shaken to its foundation, and liable to be overturned by every blast. In a word, it is at an end; and, unless a remedy is soon applied, anarchy and confusion will inevitably ensue.

There were some great moments and historic scenes during the Convention, which should serve as an inspiration. Those men had worked diligently for five weeks without agreeing upon a single sentence, so anxious were they to excel in thought and expression.

One of the remarkable scenes occurred on June 28, when, in the midst of a rather heated discussion and sharp disagreement, the future of the Convention looked discouraging. Washington, his face white with anxiety, looked down at Benjamin Franklin, whom he doubtless hoped might say something that would bring harmony to the proceedings.

Franklin had rendered great service in the fields of invention, commerce, science, philosophy, literature, diplomacy, and statecraft and commanded the highest respect of the delegates. He felt that his participation in the framing of the Constitution was by far the most important work of his useful and eventful life and was extremely anxious that it should be successful.

Addressing Washington as Mr. President, he made an appeal to the Convention of which the following are brief excerpts:

> The small progress we have made after four or five weeks close attendance and continual reasonings with each other — our different sentiments on almost every question, several of the last producing as many noes as ayes, is methinks a melancholy proof of the imperfection of the Human Understanding. We indeed seem to feel our own want of political wisdom, since we have been running about in search of it. We have gone back to ancient history for models of Government. . . . And we have viewed Modern States all round Europe, but find none of their Constitutions suitable to our circumstances.
>
> In this situation of this Assembly, groping as it were in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, Sir, that we

have not hitherto once thought of humbly applying to the Father of lights to illuminate our understandings? . . .

I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth — that God governs in the affairs of men. And if a sparrow cannot fall to the ground without his notice, is it probable that an empire can rise without his aid? . . .

I therefore beg leave to move — that henceforth prayers imploring the assistance of Heaven, and its blessings on our deliberations, be held in this Assembly every morning before we proceed to business. . . .

The motion did not carry, but it seemed to lend a wholesome effect, and from that time real progress was made in the Convention.

William Jackson, the official secretary of the Convention, did not keep a complete record of the discussions, but James Madison of Virginia took copious notes during the day and spent his evenings amplifying the record of the deliberations. His memoranda was afterward compiled in a work known as the "Madison Papers," which was published in 1841, fifty-four years after the Convention, when all of the delegates had passed to the great beyond.

William Pierce of Georgia made brief but extremely interesting sketches of his impression of the various delegates, and some of the other delegates kept brief memoranda of portions of the proceedings, all of which will prove interesting reading as one becomes familiar with the contents of the Constitution.

Various committees were appointed on detail, style, and unfinished parts of the Constitution; and, after more than four months of earnest, intelligent, and highly purposeful discussion, the Constitution was gradually molded into form and ready for signature on September 17.

Some of the delegates were hesitant about putting their signature to the Constitution. Several very forceful appeals were made by those strongly favoring the Constitution, urging that it be signed in order that it might be submitted to the conventions of the States for ratification.

Franklin was anxious because of the numerous objections made by those who did not approve the Constitution, but when a sufficient number had signed to submit it to the States in convention assembled for ratification, his old wrinkled face broke into a smile, and he said:

Often and often, in the course of the sessions of this convention, and the vicissitudes of my hopes and fears as to its issue, I have looked at that painted sun back of Washington and wondered what it meant. They tell me that an artist has great difficulty in making a distinction between a rising and a setting sun, but now at length I have the happiness to know that it is a rising and not a setting sun.

At the close of the Convention, the records were sealed and committed to Washington with the injunction " that he retain the Journal and other papers subject to the order of Congress, if ever formed under the Constitution."

QUESTIONS

1. On what date was the Constitutional Convention called to meet?
2. How did the States respond?
3. Why were many of the delegates late in arriving?
4. How many States did Washington find represented on that day?
5. On what day was a quorum secured?
6. What wish did Washington express in his letter to Madison?
7. What did Washington reply when it was suggested that some popular fallacies should be adopted?

8. What did Washington understand clearly?
9. What effect did these two great utterances of Washington have?
10. What was Washington's attitude toward demagogueism?
11. What was the attitude of most of the delegates regarding Washington's position?
12. Who was made chairman of the Convention?
13. Who was appointed secretary of the Convention?
14. Who were appointed to prepare rules and regulations to govern the Convention?
15. How long did the Convention remain in session?
16. What were the reasons for the two adjournments?
17. What policy did they adopt in regard to publicity?
18. How do the results of the Constitutional Convention compare with those of most modern conventions?
19. What were the most important rules regarding secrecy?
20. Give an illustration of the seriousness with which Washington regarded the rule of secrecy. An illustration of Franklin's attitude.
21. Who submitted plans for a Constitution to the Convention?
22. What were the conditions during the early days of the Convention?
23. What did Washington say in his letter of May 30?
24. How long did the delegates work before writing any portion of the Constitution?
25. What remarkable scene occurred on June 28?
26. What was the effect of Franklin's address?
27. Who kept notes of the proceedings in the Convention besides the official secretary?
28. When were the " Madison Papers " published?
29. What did William Pierce of Georgia do?
30. When was the completed draft of the Constitution ready for signature?
31. Why was Franklin filled with anxiety?
32. What was his comment as the delegates were signing?
33. What was done with the records at the close of the Convention?

CHAPTER V

DEFINITION AND ANALYSIS OF THE CONSTITUTION

One of the chief essentials to an understanding of the Constitution is to have it clearly defined.

To say that the Constitution is an "organic law," which is a common definition, simply suggests the question: What is an inorganic law? To say that it is the "fundamental law," which is another common definition, simply suggests the question: Are all other laws unfundamental?

To regard the Constitution as merely a statement of principles and an enumeration of rights and guarantees simply results in confusion and a false concept.

The Constitution of the United States is *a statement of purposes, followed by a plan for setting up and maintaining a mechanism to administer a Federal representative government in harmony with the purposes set forth in the Preamble.*

The supreme test of the Constitution, then, is:

Are the purposes to which it is dedicated beneficent, comprehensive, correct, and practical?

Is the plan for setting up and maintaining a mechanism to administer a Federal representative government in harmony with the purposes set forth in the Preamble well conceived and clearly stated?

The test of the advisability of placing an amendment in the Constitution should be:

Is it necessary in order to improve the statement of purposes or improve the plan for setting up and maintaining a mechanism to administer a Federal represen-

tative government in harmony with the purposes set forth in the Preamble?

Before the Constitution was written it had been the custom of mankind throughout the ages to approach the problems of government in terms of protest against conditions and to indulge in superlative declarations as to rights and privileges without working out a definite plan for meeting the situation.

The men who wrote the Constitution approached the problems of government in an analytical manner in terms of plan, purposes, powers, and restraints, believing that if they could make a wise plan and dedicate it to right purposes, vest it with proper powers, and curb those powers with well balanced restraints, the result would be " blessings of liberty " and opportunities for the people living under a government so conceived and so administered.

A brief analysis of the plan of making the Constitution would be about as follows:

Preamble.	1. A statement setting forth the six purposes to which the Constitution was dedicated and for which it was established by which the people entered into an agreement to set up and maintain the form of government provided by the Constitution after its ratification.
Article I.	2. Plan for setting up a bi-cameral Legislative Department and vesting it with functioning powers and restraints.
	3. Restraints upon the national government.
	4. Restraints upon the States.
Article II.	5. Plan for setting up an Executive Department and vesting it with functioning powers and restraints.

Article III.	6. Plan for setting up a Judicial Department and vesting it with functioning powers and restraints. 7. Definition of treason.
Article IV.	8. Relation of the States to each other. 9. Relation of the Federal Government to States and Territories.
Article V.	10. Provision for amending the Constitution *whenever necessary,* and provision that no State, without its consent, can ever be deprived of equal representation in the United States Senate.
Article VI.	11. Provision for national debts. 12. Supremacy of Federal Constitution, national laws, and treaties. 13. Pledge of all national and State officers to uphold the Constitution of the United States. 14. Ban on religious test as qualification to public office.
Article VII.	15. Method for ratification.

The right mental condition for a real understanding and just appreciation of the Constitution is to regard each one of the fifteen elements set forth in the above outline as a part of an excellent plan for government, just as each letter in the alphabet, each one of the ten digits, and each note in the scale of music is a part of an excellent plan.

To approach a study of the Constitution with confidence that it will be found a well conceived and fundamental basis for solving governmental problems, just as the alphabet is the fundamental basis for solving the problems of written language, as the ten digits are the fundamental basis for solving the problems of arithmetic, and as the scale of music is the fundamental basis

for solving musical problems, will go far toward the mastering of a task which for more than a century and a quarter has been regarded as difficult and complex, but which, when properly approached, is simple and easy.

It is necessary to have clearly in mind that the men who wrote the Constitution intended to formulate a plan for setting up a Federal government, well balanced between the nation and the States, that would be strong enough to maintain itself permanently and to function effectively at all times and under all conditions.

Furthermore, they sought to have the Federal government exercise only such powers and jurisdiction as should be necessary to bring about, in so far as possible, a realization of the purposes set forth in the Preamble and to leave to the jurisdiction of the States the control of all activities which it did not seem necessary or advisable for the Federal government to control in order to maintain itself and function effectively to "promote the general welfare."

In order to appreciate fully the merit of the original Constitution, it is important to know that its authors made a very clear distinction between what are properly Constitutional provisions and what are properly statutory enactments and that statutory material was studiously excluded.

The Constitution did not specify the amount of salary for any public official. Its authors well knew that what might be a princely salary in 1787 might be insufficient compensation with the lapse of time, and they left all such matters to be determined and regulated by statute law.

The Constitution does not provide definitely the number of members that should constitute the legislative department; nor does it stipulate how many justices should sit on the Supreme bench nor how many Federal

courts there should be; nor does it provide how many officers should be appointed by the President or what offices should be created. All such questions were left to be governed by statute as population increased, as conditions changed, and as new problems arose.

For example, all that is said in the Constitution with regard to the postal service is " to establish post-offices and post-roads." Those five words are sufficient as a Constitutional provision for the postal system. The questions of where post-offices should be located, how much they should cost, who should be employed in the postal service, what pay they should receive, whether mail should be carried on dirt roads, railroads, waterways, or air routes, are all matters to be governed by statute, so as to conform to change and development.

The Constitution contains many provisions indicating fine discrimination in the insertion of what are properly Constitutional provisions and the omission of what should be properly statutory enactments.

An essential characteristic is that a Constitutional provision should be permanent in its nature, while a statutory provision may be temporary and changeable.

The oft-repeated assertion that the Constitution is a statement of fundamental principles is very misleading.

For example, such provisions as the following:

All legislative powers herein granted shall be vested in a Congress.

The Senate of the United States shall be composed of two Senators from each State.

Congress shall have power to lay and collect taxes.

The President shall be commander-in-chief of the army and navy.

The Vice-President of the United States shall be president of the Senate.

Such provisions cannot truthfully be said to be principles. They are parts of the plan, and the Constitution is made up largely of clauses which are parts of a wise and remarkable plan for setting up a good government.

Another source of confusion is the sort of discussion which too frequently occurs with reference to the so-called growth of the Constitution through legislative enactments, executive decrees, and judicial decisions.

Applications of the Constitution grow, and legislative, judicial, and executive acts become a part of the law of the land, but they do not become a part of the Constitution.

The provision in the Constitution, "Congress shall have power to coin money and regulate the value thereof," is necessary, even though only one mint be established; but it is adequate to provide for whatever number of mints may be needed to meet conditions.

In this instance, it is plainly evident that provision in the Constitution does not grow, but that applications of it may grow through statutes providing for an increasing number of mints; and this same reasoning holds true with reference to many other clauses in the Constitution.

To illustrate by analogy, it would be improper to speak of the growth of the alphabet, but highly proper to speak of the growth of language through applications of the alphabet. The letter "t" remains the same whether it be used once in spelling the word "cat" or many, many times in making a dictionary or an encyclopedia. The digit "2" remains the same whether it be used in computing a small sum or many times in computing the distances between planetary bodies.

The origin of the Constitution is another subject which has given rise to much misleading discussion with regard to its having been evolved from former documents, ancient and modern. The Constitution is an

original piece of work, containing many new features such as a Federal government having power to levy taxes, a Federal government with delegated power operating directly upon the people, the creation of a dual form of citizenship, national and State, etc.

These new features were woven together with ideas that had been thoroughly tested; this resulted in a novel and well rounded plan for setting up a mechanism to administer a government.

QUESTIONS

1. What is essential to an understanding of the Constitution?
2. What question does the definition "organic law" suggest?
3. What question does the definition "the fundamental law" suggest?
4. What method of regarding the Constitution results in confusion?
5. How does the author define the Constitution?
6. What is the supreme test of the Constitution?
7. What should be the test for incorporating amendments?
8. How was it customary for mankind to approach the problem of government prior to the writing of our Constitution?
9. How did the authors of the Constitution approach those problems?
10. What is the Preamble?
11. What does Article I contain?
12. Article II?
13. Article III?
14. Article IV?
15. Article V?
16. Article VI?
17. Article VII?
18. What does the author suggest as a helpful attitude in approaching a study of the Constitution?

19. What should we have clearly in mind?
20. Concerning what was a clear distinction made by the delegates?
21. Give several illustrations.
22. What did many of the provisions of the Constitution indicate?
23. What is an essential characteristic of a proper Constitutional provision?
24. What oft-repeated assertion is misleading?
25. Illustrate.
26. Of what is the Constitution largely made up?
27. What is another source of confusion? Why?
28. What is the author's discussion on this point?
29. What other subject has given rise to misleading discussion?
30. Just what does the Constitution contain?

CHAPTER VI

THE PREAMBLE

We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

For the successful accomplishment of a desired project, it is important to know as nearly as possible what is to be achieved. History records no finer illustration of a clear concept of the aims sought and of the results desired from an undertaking than this remarkable pronouncement of the purposes set forth in the Preamble to the Constitution of the United States.

This Preamble is an accurate, comprehensive, and masterly statement of the purposes of government, as every proper governmental activity can be classified under one or more of the six great purposes set forth in it.

For some unaccountable reason there has been a disposition not to attach to the Preamble the significance which it possesses. It is highly important, because the Constitution was dedicated to the six purposes set forth in the Preamble and to no other purposes.

It is proper to assume that, in the making or interpreting or enforcing of laws, public officials should ask themselves: Is this law being made or interpreted or enforced in accordance with one or more of the six pur-

poses set forth in the Preamble? Such a test adhered to would greatly improve the functioning of government.

There has been much idle talk during recent years to the effect that we have outgrown the Constitution; that we are living in different times, under different conditions; that the men who wrote the Constitution could not have foreseen this great mechanical and industrial age or they would have written it differently.

A moment's reflection will reveal the fallacy of such assumptions. It is extremely doubtful, for instance, that those who conceived the scale of music foresaw the phonograph or the radio. It is extremely doubtful that those who conceived the alphabet foresaw the typewriter, the printing press, or modern typesetting machines. It is extremely doubtful that the author of the ten digits foresaw the adding machine or the science of higher mathematics.

Let us try the following experiment:

Read the Preamble of the Constitution carefully, bearing in mind that it is now more than one hundred and thirty-nine years old, then look forward a million years, letting our imaginations picture all the good things that could come to the human race if it lived right and did right for a million years, and undertake to make a change for improving the Preamble.

What word should be added?

What word should be stricken out?

What purpose should be eliminated?

What further purpose should be included?

What more can we ever do for our country's progress than to continue working (1) " to form a more perfect Union." Washington's letters and other evidence indicate that the Union was in very bad condition prior to the writing of the Constitution. We cannot attain perfection, so there is one task that will last indefinitely. (2) " Establish justice." Justice has never been fully

accomplished in any single place as yet, but the Preamble assigns the task of making it universal. (3) " Insure domestic tranquillity." In *The Federalist,* Number 6, Hamilton, while pleading for the ratification of the Constitution, said among other things:

> Let the point of extreme depression to which our national dignity and credit have sunk, let the inconveniences felt everywhere from a lax and ill administration of government, let the revolt of a part of the State of North Carolina, the late menacing disturbances in Pennsylvania, and the actual insurrections and rebellion in Massachusetts, declare. . . !

This would indicate general disturbance at that time, and there is always need to " insure domestic tranquillity." (4) " Provide for the common defense," at all times under all conditions, at all hazards, whether it be a local insurrection, an attempt at secession, or foreign invasion. (5) " Promote the general welfare "; a phrase difficult to outgrow and one under which many constructive activities can be classified. (6) " Secure the blessings of liberty to ourselves and our posterity." The word " liberty " does not appear anywhere else in the original Constitution. It is frequently used today in a careless manner, with little comprehension of the tremendous difficulties encountered to secure or maintain the " blessings of liberty."

The authors of the Constitution were not prodigal with words; yet it is worth noting that the word " liberty " does not appear without qualification. They must have had a reason for using the qualifying words " blessings of." It would seem that they considered that there were perils of as well as " blessings of liberty," and they sought only the blessings for themselves and their posterity.

Prior to the writing of this Preamble, there cannot be found a good, brief, clear, comprehensive statement of

the purposes of government, though one may have access to all that was said by Socrates, Plato, Aristotle, Confucius, or Montesquieu and all that was ever said by any individual or group of individuals in any country, including our own, before that time.

This fact is a striking illustration of what a vague science government had been before the Constitution was written. Not even a good statement of the purposes of government had been made, to say nothing of providing a plan for setting up a good government.

The phrase, "*We the people of the United States,*" has been given various interpretations, such as, "The people wrote the Constitution," etc.

The interpretation herein suggested is that, in setting up a Federal government, it was intended that its jurisdiction should extend not only to the States but to the people within the States; and that, when the Constitution, framed by representatives in national convention, had been ratified by representatives in State conventions, the people had entered into a solemn agreement for themselves and posterity to set up, adhere to, and preserve the representative plan of Federal government established and ordained by the Constitution.

The Federal Preamble would make a better preamble for State constitutions than any now found in such documents, and that without changing a single word, except to substitute the name of a given State for "United States," because to endeavor to carry out the six purposes set forth in the Preamble should be the mission of each State government.

Likewise, it would make a good preamble for the constitution of any other country, because a realization of these six purposes is the governmental goal toward which all peoples in all countries are striving.

Some interesting questions for contemplation are sug-

gested in this connection. To what extent is the dedication of our government to the purposes set forth in the Preamble responsible for our having become a peace-minded nation?

Would it tend to make other nations peace-minded if they were to dedicate their governments to the purposes set forth in the Preamble?

QUESTIONS

1. Recite the Preamble.
2. What is essential to the accomplishment of a desired result?
3. Of what is the Preamble a fine illustration?
4. What can be classified under its purposes?
5. What is this Preamble?
6. To what was the Constitution dedicated?
7. What is it highly proper to assume that public officials should do with regard to the Preamble?
8. What would such a test, if adhered to, accomplish?
9. What sort of talk during recent years is quite characteristic?
10. Why are such assumptions fallacious?
11. What experiment does the author suggest?
12. What is the comment on each of the six purposes?
13. How often does the word " liberty " appear in the original Constitution?
14. How is that word frequently used today?
15. How did the authors of the Constitution qualify the word " liberty? "
16. Why?
17. Can you find a good, clear, accurate statement of the purposes of government made prior to the writing of the Preamble?
18. Of what is this an illustration?
19. How has the phrase, " We the people of the United States," been interpreted?
20. What interpretation is suggested in this chapter?

21. Why would this Preamble be the best possible preamble for our State constitutions?
22. Why would this Preamble be good for the constitutions of other countries?
23. What interesting questions are suggested regarding the possible influence of the Preamble?

CHAPTER VII

ARTICLE I: THE HOUSE OF REPRESENTATIVES

THE LEGISLATIVE DEPARTMENT

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

The powers of Congress are limited to those granted under the Constitution.

A member of the Senate is called a Senator.

A member of the House of Representatives is called a Representative and is frequently referred to as a Congressman.

Congress consists of two branches, known as the Upper and the Lower House. All bills must be approved by both houses before becoming laws, each house acting as a restraint upon the other, thus diminishing the chances of rash action.

Section 2. (1) The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

The word " electors " as used above means qualified voters.

This is a significant part of the Constitution as indicating that the intent of its authors was that the States

should have the power of determining the qualification of voters who would select Federal as well as State officers.

That power which the original Constitution left with the States has been supplemented by the Fifteenth and Nineteenth Amendments, as follows:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Amendment XV has not been strictly adhered to.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

A large proportion of the women do not take advantage of their right to vote as provided for in Amendment XIX.

(2) No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

A citizen of the United States might not be a citizen, temporarily, of any State. That is, a citizen might move from one State to another State and not have resided in that State long enough to have qualified for citizenship there. In such event the status would be that of an inhabitant.

It was the custom, following the adoption of the Constitution, for candidates for Congress to be elected by the voters of the State at large. In 1842, it was pro-

vided that the States should be apportioned into Congressional districts.

It is the general rule to select a citizen residing in the Congressional District for Representative, but there have been exceptions, under which Congressmen have been chosen who did not live in the Congressional District from which they were elected, but a Representative must be an inhabitant of the State from which chosen.

Amendment XIV, Section 3, adds the further qualification:

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

This amendment had reference originally to the Civil War, but it might be invoked again if a situation arose under which it should be needed.

(3) Representatives and direct taxes (except income) [1] shall be apportioned among the several States which may be included within this Union according to their respective numbers, *which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years,* and excluding Indians not taxed, *three-fifths of all other persons.* The

[1] Insert. See Amendment XVI.

actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; [and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia, 3.] [2]

Taxes are assessments levied on persons or property to support the government.

The phrase " direct taxes " in the first line of Paragraph 3 is modified by Amendment XVI to provide for levying an income tax directly, as follows:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

An income tax is based upon one's income as distinguished from a tax based upon property.

The italicized portion of Paragraph 3 is modified by Amendment XIII, as follows:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

[2] Obsolete since 1793.

The purpose of Amendment XIII was to abolish slavery within the jurisdiction of the United States.

The italicized portion of Paragraph 3 is further modified by Sections 1 and 2 of Amendment XIV, as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The purpose of Sections 1 and 2 of Amendment XIV was to give the former slaves the status of citizenship and to provide for a rearrangement of apportionment for representation in the Lower House.

(4) When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

Vacancies in Congress may occur by reason of death, resignation, expulsion, or any disqualification resulting in the inability of the representative to remain as a member.

The executive power in each of the States is vested in a governor.

A writ of election is a proclamation announcing a vacancy and appointing a day when an election shall be held to fill such vacancy.

(5) The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

The Speaker is one of the members of the House of Representatives chosen to act as presiding officer.

The other officers who are not members are the Chaplain, the Doorkeeper, the Clerk, and the Sergeant-at-Arms.

Impeachment is the act of charging a public official with a crime or misconduct.

QUESTIONS

1. Recite Section 1, Article I.
2. To what are the powers of Congress limited?
3. What is a member of the Senate called?
4. What is a member of the House of Representatives called?
5. Of what two branches does Congress consist?
6. What approval is necessary in the enactment of laws by Congress?
7. What is the result of that method of procedure?
8. How often are members of the House of Representatives chosen?

9. By whom are they chosen?
10. What qualifications are necessary to make one eligible to vote for candidates for the House of Representatives?
11. What does the word " electors " mean as used in Article I, Section 2?
12. Why is this a significant part of the Constitution?
13. By what amendments has that power been supplemented?
14. What is the Fifteenth Amendment?
15. What is the Nineteenth Amendment?
16. What is the minimum age at which a citizen is qualified to become a member of Congress?
17. How long must one have been a citizen of the United States before being eligible to membership in the House of Representatives?
18. How might a citizen of the United States not be a citizen of a State from which he is chosen as a Representative?
19. By whom were Representatives elected prior to 1842?
20. What change was made at that time?
21. What is the general rule in selecting Representatives?
22. What other qualifications are stipulated by Section 3 of Amendment XIV?
23. How could disability under that amendment be removed?
24. By what amendment is the phrase " direct taxes " modified?
25. What does Amendment XVI provide?
26. What is an income tax?
27. By what amendment are the italicized portions of Paragraph 3 modified?
28. What was the purpose of Amendment XIII?
29. What was the purpose of Sections 1 and 2 of Amendment XIV?
30. Within what period of time after the first meeting of Congress was the first enumeration or census to be made?
31. How frequently thereafter?
32. In what manner shall the census be taken?

33. How does Section 2, Amendment XIV, provide that Representatives shall be apportioned among the several States?
34. How are vacancies filled in the House of Representatives?
35. How may vacancies occur?
36. In whom is the executive power of the State vested?
37. What is a writ of election?
38. How are the officers chosen?
39. Who is the Speaker?
40. What are the other officers?
41. What is impeachment?
42. Where does the sole power of impeachment lie?

CHAPTER VIII

ARTICLE I: THE UNITED STATES SENATE

Section 3. (1) The Senate of the United States shall be composed of two Senators from each State, chosen by the *Legislature* thereof, for six years; and each Senator shall have one vote.

This provision of the Constitution was made after considerable difficulty and much discussion. The membership of the House of Representatives is based upon population, but all States have equal representation in the Senate without regard to size or population.

For example: New York has forty-three Representatives; Rhode Island has three; Illinois has twenty-seven; Nevada has one; but each of the four States has two Senators.

This is frequently referred to as one of the so-called great compromises, but it has proven to be a very wise provision.

Its purpose was to insure the equality of all the States in at least one department of the government.

The italicized word in the first paragraph of Section 3 is modified by Amendment XVII, as follows:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

There is considerable difference of opinion as to the advisability of this amendment which changes the

method of choosing Senators, and many feel that since its adoption the United States Senate has shown a decline in the ability and character of its members.

The United States Senate is our highest deliberative body; and, until recent years, it was generally referred to throughout the world as the greatest deliberative assembly ever known.

(2) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; *and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*

One of the chief purposes of the Senate was to serve as a stabilizing influence on the government, and so it was provided that the term of office in the Senate should be six years and that only one-third of the Senate would be selected every two years, leaving two-thirds of the Senate in office; so that, in the event that at an election for President and members of the House of Representatives, and one-third of the Senate, there should be a great change in the personnel, a portion of the government would remain over to prevent, if necessary, too radical changes in governmental policy.

This provision makes the Senate a continuous body without a marked disruption at every election.

The italicized portion of the second paragraph of Section 3 is modified by the second and third paragraphs of Amendment XVII, as follows:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies; Provided, That the legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

(3) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.[1]

A citizen, to be eligible for membership in the United States Senate, must be five years older and two years longer a citizen than is necessary to be eligible for membership in the House of Representatives; and, like a Representative, must be an inhabitant of the State from which he is chosen.

This provides for maturer experience and wisdom in the Senate than in the House of Representatives.

(4) The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

The records show that many times the Vice-President

[1] See Amendment XIV, Section 3, for further qualifications.

has cast the deciding vote in the Senate, often in determining very important questions.

(5) The Senate shall choose their other officers, and also a President pro tempore in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

The President pro tempore, who is always one of the Senators, is the presiding officer in the Senate in the absence of the Vice-President.

The other officers, who are not members of the Senate, are the Chaplain, Secretary, Sergeant-at-Arms, Doorkeeper, and Assistant Doorkeeper.

(6) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

In view of the large number of officials who have held office under the United States, impeachments have been comparatively few. This action has been brought against only one President, and the impeachment was not sustained.

(7) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Thus far no public official convicted by the Senate in impeachment proceedings has ever been tried by a court on the charges for which the Senate convicted him.

QUESTIONS

1. Of what is the United States Senate composed?
2. How were Senators originally chosen?
3. For what length of term are they elected?
4. Under what conditions was this provision of the Constitution made?
5. What is the basis of representation in the House and in the Senate?
6. Illustrate.
7. How is this provision frequently referred to?
8. What has it proven to be as a matter of fact?
9. What was its purpose?
10. How was the method of electing Senators changed by Amendment XVII?
11. What is the general attitude with reference to this amendment?
12. How do many people feel about the effect of the change?
13. What is our highest deliberative body?
14. What portion of the Senators are elected every two years?
15. What was one of the chief purposes of the United States Senate?
16. What is the effect of this provision?
17. How has Paragraph 2 of Section 3 been modified by amendment?
18. What is the minimum age at which a citizen is qualified to become a member of the United States Senate?
19. What additional qualifications are specified?
20. What is the difference between the qualifications provided for membership in the United States Senate and membership in the House of Representatives?
21. What other qualifications are stipulated by Section 3 of Amendment XIV?
22. Who presides as president of the Senate?
23. When is the Vice-President entitled to vote?
24. How frequently has the Vice-President cast the deciding vote in the Senate?

25. How are the President pro tempore and other officers of the United States Senate chosen?
26. Who presides over the Senate in the absence of the Vice-President?
27. What other officers does the Senate have?
28. Where is the sole power to try all impeachments lodged?
29. What is required of Senators when sitting for that purpose?
30. Who presides over the Senate when the President of the United States is impeached?
31. What portion of the votes of members present is necessary for conviction?
32. What is said with reference to the frequency of impeachments?
33. What was the result in the single instance of the impeachment of a President?
34. How far can judgment in cases of impeachment extend?
35. In the event of conviction, what further procedure is possible?
36. What has been the custom thus far?

CHAPTER IX

ARTICLE I: ORGANIZATION OF CONGRESS

Section 4. (1) The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, *except as to the places of choosing Senators.*

The italicized portion of Section 4 is made ineffective by Amendment XVII, which provides that Senators shall be chosen by the people instead of by the legislatures of the States.

(2) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

The place of meeting is not specified. The first Congress under the Constitution met in New York in 1789 and in 1790 moved to Philadelphia where sessions were held until 1800 when the permanent capital was established at Washington.

Section 5. (1) Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to com-

pel the attendance of absent members in such manner and under such penalties as each house may provide.

This provision regarding qualifications illustrates the firm purpose of the framers of the Constitution to give Congress adequate control over matters affecting its proper organization and functioning.

Both houses of Congress have frequently exercised the power of unseating members because of a decision that they were not legally elected or did not possess the requisite qualifications, and from the judgment of either house there is no appeal.

A quorum is the number of members of a body sufficient to transact business.

A quorum in each house of Congress is more than half of the members. Legislation can be enacted by a vote of more than one-half of a majority in both houses, which would require little more than one-fourth of the entire membership.

Less than a majority in either house may adjourn from day to day and may compel the attendance of absent members.

(2) Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member.

The Senate being a continuous body, the rules are seldom changed.

The House renews itself every two years, but it is the general practice to adopt the rules of the last session. Occasionally, however, changes are made in the rules of both houses.

Punishment generally consists of reprimand for a minor offense and expulsion for a major offense. It

requires a two-thirds vote of either house to expel a member.

(3) Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

The official report of the proceedings of Congress is called the Congressional Record. It is published daily during the sessions of Congress. Frequently Congress votes to have inserted in the Congressional Record matters which were not a part of the proceedings, but might be of public interest.

When matters demanding secrecy are discussed, executive sessions are held behind closed doors. The questions generally considered at such meetings are those pertaining to treaties or appointments.

(4) Neither house, during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

This provision prevents lengthy recesses; and, since both houses must approve all measures, it would be improper for one house to adjourn, leaving the other house in session for any considerable time.

Section 6. (1) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be

privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

The salaries of members of Congress were not fixed in the Constitution. All such questions were left to be regulated by statutory provisions.

The last provision in Section 6, Paragraph 1, establishes what is called Congressional immunity. Senators and Representatives are thus protected from unjust interference in the performance of their duties. Public policy also dictates that they should be privileged to speak freely without fear of personal consequences.

Treason is defined in Article III of the Constitution.

Felony is a crime punishable by death or imprisonment in a Federal or State prison.

(2) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Section 7. (1) All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills.

Since the larger States would bear the larger portion of the burden of taxes, it seems fitting that revenue bills should originate in the House where the States have proportionate representation rather than in the Senate where the States have equal representation.

(2) Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

When the President disapproves a bill and returns it to Congress with a statement of his reason for withholding his signature, he exercises the power of veto. This is an illustration of one of a number of well-balanced restraints to be found in the Constitution.

This power has frequently been exercised, and has often resulted in saving the country from ill-advised legislation. On the other hand, bills so vetoed have sometimes been passed, by the required two-thirds vote, over the President's veto.

The exception in the last sentence of Paragraph 2 makes possible what is called the "pocket veto." If a

bill is presented to the President within the period of ten days before adjournment, which he does not sign, it dies automatically.

(3) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

The purpose of this provision is to prevent Congress from enacting any measures without the President's knowledge or approval.

QUESTIONS

1. What agency prescribes the times, places, and manners of holding elections of Senators and Representatives?
2. What may Congress do by law with reference to this provision?
3. By what amendment is the italicized portion of Section 4 made ineffective?
4. How often does the Constitution provide that Congress shall assemble?
5. On what day is it provided that Congress shall assemble?
6. In what three cities has Congress assembled?
7. Of what shall each house be the judge?
8. What constitutes a quorum to do business in either house?
9. What can a minority do with reference to adjournment?
10. With reference to compelling attendance of absent members?

11. What is the provision with reference to determining rules of proceedings?
12. With reference to punishment of members for disorderly behavior?
13. How large a vote is required to expel a member from either house?
14. What is the official report of the proceedings of Congress called?
15. What parts of the proceedings of Congress may not be published?
16. By what means may the yea and nay vote be entered on the journal?
17. What is the provision with regard to adjournment of either house?
18. By what method is the compensation for members of Congress fixed?
19. By what department in the executive branch are their salaries paid?
20. What protection is given members of Congress with reference to privilege from arrest and freedom of speech?
21. What does this provision establish?
22. Why is such protection desirable?
23. What is the provision with reference to the appointment of members of Congress in the Federal government?
24. Is a citizen holding another office under the United States eligible for membership in either house of Congress?
25. Where must all bills for raising revenue originate?
26. What may the Senate do with reference to bills for raising revenue?
27. What is the probable reason for this provision?
28. What is done with a bill passed by Congress before it becomes a law?
29. If the President does not sign a bill, what does the Constitution provide he shall do?
30. What does it provide that the house to which the bill is returned shall do?
31. How may a bill become a law without the approval of the President?
32. How are the votes of both houses on such a question recorded?

33. Under what conditions may a bill passed by Congress become a law without the signature of the President?
34. When the President rejects a bill passed by Congress what is it called?
35. What has been the effect of the veto power?
36. What does the exception in the last sentence of Paragraph 2 make possible?
37. What is the effect of the " pocket veto? "
38. What is the procedure with reference to every order, resolution, or vote to which the concurrence of both houses is necessary?
39. What is the purpose of this provision?

CHAPTER X

ARTICLE I: POWERS VESTED IN CONGRESS

Section 8. The Congress shall have power:

(1) To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

Duties and imposts are taxes levied on imports.

Excises are taxes levied on commodities of home production.

(2) To borrow money on the credit of the United States.

The customary method of borrowing money is to issue and sell United States bonds payable at a future date. The Liberty Bonds issued during the World War are illustrative.

(3) To regulate commerce with foreign nations and among the several States, and with the Indian tribes.

This is one of the most important and far-reaching provisions. It received much serious discussion in the Constitutional Convention and has been the cause of much legislation by Congress and much litigation in the Federal Courts. Experience has amply proven it to be one of the most essential parts of the Constitution.

(4) To establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

Naturalization is the process of admitting a foreigner to citizenship.

Bankruptcy is a state of inability to meet financial obligations.

(5) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

(6) To provide for the punishment of counterfeiting the securities and current coin of the United States.

" Counterfeiting " as here used means the illegal imitation of money or securities coined or issued by the government.

(7) To establish post-offices and post-roads.

(8) To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

Under this power, the United States grants copyrights and patents.

Copyright is the exclusive right of reproducing the language and form of a literary, musical, or artistic production.

A patent is a grant by the government to secure to an inventor the exclusive right to make and sell, for a specified period, the thing invented or discovered by him.

Copyrights are obtained through the Librarian of Congress.

Patent rights are obtained through the Department of the Interior, from the Commissioner of Patents.

Under the commerce clause in Paragraph 3 Congress has also provided by law for the protection of trademarks.

(9) To constitute tribunals inferior to the Supreme Court.

This provision empowers Congress to create from time to time such Federal Courts as may be needed to meet conditions.

(10) To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

Piracy is robbery on the high seas.

The law of nations is a code of rules and precedents governing nations in their relations with one another.

The high seas are those over which all vessels have an equal right to travel.

(11) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

Letters of marque and reprisal are authority issued by the government to citizens to equip and officer ships and proceed against an enemy with which the government is at war, outside the national boundary.

A ship, so equipped and authorized, is called a privateer, and the letter insures its officers and crew, if captured, the treatment of prisoners of war. Without it, they would be treated as pirates.

The practice of granting such letters has fallen into disuse in civilized nations.

(12) To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

(13) To provide and maintain a navy.

(14) To make rules for the government and regulation of the land and naval forces.

(15) To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(16) To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.

The powers granted in Paragraphs 10 to 16 were designed to enable Congress " to provide for the common defense," one of the six great purposes set forth in the Preamble.

(17) To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

The provision regarding the seat of government was one of anticipation. When the Constitution was written, the location of the national capital had not been determined, and this provision indicates how clearly the authors foresaw and provided for future contingencies.

They knew that the seat of the national government ought to be outside the territory of any State, and that Congress should have complete jurisdiction.

Washington laid the corner-stone of the Capitol in 1793, and in 1800 the seat of government was trans-

ferred to what is now known as the District of Columbia.

The laws there are administered by a commission. The citizens of the District of Columbia have no vote in local or national affairs.

It is remarkable that in a few lines such complete constitutional provision could be made for the seat of government that no amendment has been necessary regarding it.

It is highly essential that the national government should have exclusive jurisdiction over its property and buildings wherever located, to the exclusion of State authorities; and therefore Congress was given the sole power to exercise legislation on such matters.

(18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Paragraph 18 is another striking illustration of the fact that the men who wrote the Constitution intended to provide for a Federal government that would be strong enough to maintain itself and function at all times and under all conditions which might arise.

In this general grant of powers to Congress there is a terseness of statement, a dignity of style, a sweep of comprehensiveness, and a correctness of expression almost incomparable.

When we contemplate the billions of dollars that have been utilized in the manifold activities, gigantic enterprises, and marvelous achievements which have resulted therefrom, it seems almost unbelievable that such simple provisions would meet all exigencies that have arisen since they were written, and that there seems now no reason for making a single change.

Here is a striking and unusual illustration of real Constitution making, including just what are properly Constitutional provisions and excluding what should be properly statutory enactments regarding the details for carrying these powers into operation.

It would be helpful if groups of men attempting to write State constitutions in this country or constitutions for foreign countries would study more carefully and emulate more literally these provisions for properly vesting power in a legislative body.

QUESTIONS

1. What powers has Congress with reference to raising revenues?
2. What are duties?
3. What are excises?
4. How has Congress the power to borrow money?
5. What is the customary method of doing this?
6. What power has Congress with reference to commerce?
7. What is the author's comment on this provision?
8. What power has Congress with reference to naturalization and bankruptcies?
9. What is naturalization?
10. What is bankruptcy?
11. What power has Congress with reference to money?
12. What power has Congress with reference to weights and measures?
13. What power has Congress with reference to counterfeiting?
14. What is counterfeiting?
15. What power has Congress with reference to post-offices and post-roads?
16. What power has Congress with reference to promoting science and useful arts?
17. What is a copyright?
18. What is a patent?

19. How is a copyright obtained?
20. How are patent rights obtained?
21. What action has Congress taken with reference to trademarks?
22. What power has Congress with reference to establishing Federal Courts?
23. What power has Congress with reference to punishing offenses on the high seas or against the law of nations?
24. What is piracy?
25. What is the law of nations?
26. What are high seas?
27. What are letters of marque and reprisal?
28. What has happened in regard to granting such letters?
29. What power has Congress with reference to military forces?
30. What are these powers designed to accomplish?
31. What power was vested in Congress with regard to the seat of government of the United States?
32. What is the author's comment on this provision?
33. When was the seat of government transferred to the District of Columbia?
34. How are the laws administered there?
35. What general power has Congress to make laws?
36. Of what is paragraph 18 illustrative?
37. What is the author's comment on the provisions of Section 8?

CHAPTER XI

ARTICLE I: RESTRAINTS

RESTRAINTS UPON THE UNITED STATES

Section 9. [(1) The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.] [1]

(2) The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

A writ of habeas corpus is an order to bring a person under arrest before a court to ascertain if the imprisonment is just and proper.

(3) No bill of attainder or ex post facto law shall be passed.

A bill of attainder is a legislative act which inflicts punishment without a judicial trial.

An ex post facto law is retroactive and would make an act innocently performed before the passage of the law punishable after the enactment of the law or would increase the measure of punishment for a crime committed before the law was passed.

(4) No capitation or other direct tax (except income) [2] shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

[1] Obsolete since 1808. [2] Insert. See Amendment XVI.

A capitation tax is one levied on persons as individuals without regard to property or occupation. It is frequently referred to as a poll tax.

(5) No tax or duty shall be laid on articles exported from any State.

Exports are goods shipped to foreign countries.

Laying a tax on exports would tend to discourage foreign trade.

(6) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

The purpose of this provision was to insure the equality of the States in commerce.

To " enter " a vessel at port means to report her arrival at the Custom House.

To " clear " a vessel means to free it by procuring the proper papers at the Custom House for her departure.

Foreign ships are required to " enter " and " clear " at all American ports which they make.

(7) No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

This provision puts the finances entirely within the control of Congress and assures public information regarding the expenditure of public money.

(8) No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them

shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state.

This paragraph evidences the firm resolve of the authors of the Constitution to guard against the development of class consciousness and to guard against public officials being led into temptation through gifts from foreign countries.

RESTRAINTS UPON THE STATES

Section 10. (1) No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

A treaty is a formal agreement between States.

An alliance as here used is union by treaty.

A confederation is a union of independent States.

Bills of credit are issues of paper by a sovereign power, containing a pledge of its faith and designed to circulate as money.

A contract is a mutual agreement between two or more competent parties for a sufficient consideration to do or not to do a lawful thing.

The provision restraining the States from passing any laws " impairing the obligation of contracts " is a striking illustration of the fine sense of honor which the authors of the Constitution had, and their desire that contracts once made should be carried out at all times under all conditions.

(2) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

The purpose of this provision is to insure fairness to foreign trade in all the States and to enable the States properly to enforce their inspection laws, designed to exclude from a State persons afflicted with contagious diseases, infected livestock or plants, objectionable food stuffs, etc.

(3) No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

A duty of tonnage is a tax levied on ships and computed by the ship's carrying capacity.

The restraints imposed upon the States by Section 10 are largely a denial to the States of the powers granted to Congress in Section 8. Section 10 also places upon the States some of the same restraints which are imposed upon Congress in Section 9.

The restraints are among the finest and most delicate parts of the Constitution. It contains not only restraints upon the United States and upon the States, but carefully fixed restraints upon the three departments of government.

Each house of Congress is restrained by a require-

ment of favorable action by both houses to enact any measure.

Congress may be restrained by the veto power of the President or by the power of the judiciary to interpret and test the validity of acts of Congress.

The President is restrained in making treaties and appointments by the provision requiring the concurrence of the Senate.

The judiciary is restrained by the provision that judges shall hold their offices during good behavior.

QUESTIONS

1. When may the writ of habeas corpus be suspended?
2. What is a writ of habeas corpus?
3. What is the restraint upon the United States with reference to bills of attainder and ex post facto laws?
4. What is a bill of attainder?
5. What is an ex post facto law?
6. What is the provision with reference to capitation and direct taxes?
7. What is a capitation tax?
8. By what amendment is the provision regarding direct taxes modified?
9. What is the provision regarding articles exported from any State?
10. What are exports?
11. What protection have the States with regard to commerce or revenue?
12. What is the purpose of this provision?
13. How is a vessel " entered " at port?
14. How is a vessel " cleared " from port?
15. What are foreign ships required to do?
16. What is the provision with reference to drawing money from the Treasury?
17. What is the effect of this provision?
18. What is the provision with reference to titles and gifts?

19. Of what does this provision give evidence?
20. What restraints are placed upon the States in Paragraph 1, Section 10?
21. What is a treaty?
22. What is an alliance?
23. What is a confederation?
24. What are bills of credit?
25. What is a contract?
26. Of what is the provision regarding contracts an illustration?
27. What further restraints, "without the consent of Congress," are placed upon the States in Paragraph 2?
28. What is the purpose of this provision?
29. What further restraints, "without the consent of Congress," are placed upon the States in Paragraph 3?
30. What is a duty of tonnage?
31. What is the author's comment on restraints imposed upon the States in Section 10?
32. What further comment is made on the restraints provided by the Constitution?

CHAPTER XII

ARTICLE II: THE EXECUTIVE DEPARTMENT

Section 1. (1) The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Two of the most difficult and much discussed questions before the Constitutional Convention were:

Shall the executive power be vested in a single individual or several individuals? For what length of term shall the executive hold office?

It was finally determined to vest the executive power in a single individual in order that responsibility could be definitely placed and that there might be prompt decision and effective action whenever necessary.

A term of four years was established in order that the executive might have sufficient time to carry out a program of policies.

There was considerable discussion as to whether the executive should be limited to a single term or be eligible for reëlection, and the matter was left open. Washington established the precedent of retiring at the end of the second term, and the custom has never been broken, up to this time.

(2) Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or

person holding an office of trust or profit under the United States, shall be appointed an elector.[1]

The word " elector " as used in Paragraph 2 means a citizen selected to participate with other selected citizens in choosing the President and Vice-President of the United States; while, the word " elector " as used in Article I means a qualified voter.

Each State is entitled to appoint in its own way as many electors as it has Senators and Representatives in Congress. Thus, the State of Illinois, which has two Senators and twenty-seven Representatives in Congress is entitled to twenty-nine presidential electors; while the State of Delaware, which has two Senators and one Representative in Congress, is entitled to three presidential electors.

The body of electors so chosen by the States is frequently referred to as the electoral college.

(3) *The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of*

[1] See Amendment XIV, Section 3.

Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall, in like manner, choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.

Paragraph 3 was supplanted by the following Amendment XII in 1804.

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a

majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President. A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The Constitutional provisions with reference to selecting the President and Vice-President have been somewhat modified in spirit through the development of the party system and the custom of holding national political conventions to nominate candidates for President and Vice-President.

It has also become the custom to place the names of candidates for President and Vice-President on the regular ballot, as well as the names of candidates for electors.

The plan, however, is vital to the extent that when candidates for President and Vice-President receive a majority of the electoral votes, they are elected, although other candidates for President and Vice-President might receive a majority of the popular vote.

For example, in 1876 Mr. Hayes received one hundred eighty-five electoral votes and Mr. Tilden received one hundred eighty-four electoral votes for the presidency. Mr. Hayes received the election, although Mr. Tilden received a larger popular vote than Mr. Hayes. This is another illustration of how the authors of the Constitution adhered strictly to the representative method of procedure.

(4) The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Congress by law has fixed the Tuesday after the first Monday in November for choosing electors.

(5) No person except a natural born citizen [or a citizen of the United States at the time of the adoption of this Constitution] [1] shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.[2]

[1] Obsolete.
[2] See Amendment XIV, Section 3.

A natural born citizen is one who has acquired citizenship by birth within the jurisdiction of this country.

Paragraph 5 is a striking illustration of the avoidance of class consciousness on the part of the authors of the Constitution. The supreme tests with them seemed to be individual character and capacity. No other qualifications save those of age and residence are specified for eligibility to the presidency. Farmers, lawyers, educators, business men, soldiers, and politicians have been elected to that high office.

(6) In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall than act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

In 1886 Congress passed a Presidential succession law, which provides that in case of a vacancy in the offices of both President and Vice-President, the members of the cabinet, in turn, beginning with the Secretary of State shall be eligible to assume the office of President if properly qualified as to age and residence.

(7) The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

The President's salary was originally fixed at $25,000, but was later increased to $50,000, and in 1909 was raised to $75,000. In addition, he enjoys the use of the White House and some other privileges.

(8) Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2. (1) The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior offices as they think proper in the President alone, in the courts of law, or in the heads of departments.

Treaties are formal written agreements with foreign governments, and when duly ratified by the Senate they become law. The framers of the Constitution were careful to provide that, because of their great importance, the President should make treaties " by and with the advice and consent of the Senate." This is another instance of a wise restraint to prevent abuse of power or hasty action.

The appointive power is one of the most important vested in the President, and that power is restrained " by and with the advice and consent of the Senate."

No direct reference is made to a Cabinet. Heads of departments, however, are mentioned, and it is out of these that the Cabinet has grown. Five departments were established under Washington's administration. An additional one has been added by law from time to time, until the present Cabinet consists of ten heads of departments.

The five departments established under Washington's administration were: Secretary of State, Secretary of the Treasury, Secretary of War, Postmaster-General, and Attorney-General.

Since then the following five Cabinet Departments have been established: Secretary of the Navy, 1798; Secretary of the Interior, 1849; Secretary of Agriculture, 1889; Secretary of Commerce, 1903; and Secretary of Labor, 1913.

No qualifications for eligibility to appointive positions are stipulated in the Constitution. Such matters are governed by law and the judgment of those exercising the appointive power.

(3) The President shall have power to fill up vacancies that may happen during the recess of the Senate, by granting commissions which will expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

The first clause in Section 3 has given rise to the President's messages to Congress which are delivered at the opening of each session and at such other times as circumstances may warrant. They are delivered at a joint session of both houses by the President in person or read in the Senate by the Secretary and in the House of Representatives by the Clerk.

Section 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

QUESTIONS

1. In whom is the executive power vested?
2. For how long a term is the President elected?
3. What other officer is chosen for the same term in the same manner?
4. What does the author say regarding the questions involved in Paragraph 1?
5. How are electors appointed?
6. What public officials are not eligible to serve as electors?

7. What does the word "elector" mean as used in Paragraph 2?
8. To how many electors is a State entitled?
9. By what amendment has Paragraph 3 been supplanted?
10. Where do the electors meet and for whom do they vote?
11. Who are named in the electors' ballots?
12. What do the electors do with these names?
13. What do they do with the list?
14. What is the proceeding on receipt of the list by the Senate?
15. What is the proceeding when no candidate for President receives a majority of the electoral vote?
16. What is the proceeding when no candidate for Vice-President receives a majority of the electoral vote?
17. What constitutes a quorum in the Senate for this purpose?
18. What is provided as to eligibility for Vice-President?
19. How have the Constitutional provisions for selecting the President and Vice-President been modified in spirit and practice?
20. In what particular are they still vital? Illustrate.
21. What power has Congress with reference to fixing the time of choosing electors and fixing the day on which they shall cast their votes?
22. What day has Congress fixed for choosing electors?
23. What qualifications for President are necessary?
24. What is the author's comment on Paragraph 5?
25. Under what circumstances does the Vice-President become President?
26. What law relative to this question did Congress pass in 1886?
27. What is the provision with reference to compensation for the President?
28. Give the exact wording of the oath.
29. Of what is the President commander-in-chief?
30. What may the President require of the principal officers of the executive departments?
31. What power has the President with regard to reprieves and pardons?
32. What is the one exception?

33. By what method are treaties made?
34. By what method are appointments of officers of the government made?
35. What may Congress do by law with reference to appointments?
36. What is the author's comment on treaties and the appointive power?
37. How many executive departments were created under Washington's administration?
38. What Cabinet Departments have been established since then?
39. What power has the President during the recess of the Senate with reference to appointments?
40. When do recess appointments expire?
41. What must the President from time to time give to Congress?
42. What is this information called?
43. In what manner is it delivered?
44. When may the President convene both houses or either of them?
45. Under what circumstance may he adjourn them?
46. What is his duty with respect to ambassadors?
47. What is he commanded to do regarding the enforcement of laws?
48. Whom does the President commission?
49. What officers are liable to removal?
50. For what causes?

CHAPTER XIII

ARTICLE III: THE JUDICIAL DEPARTMENT

Section 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Here in a brief paragraph is stated the plan for setting up the judicial department, which is another splendid illustration of the unusual capacity of the men who wrote the Constitution for brevity and clearness in comprehensive statement.

The Constitution does not specify how many members of the Supreme Court there shall be, nor the number and nature of inferior courts that shall be established, nor does it fix the salaries of the judges. All those questions were properly left to be determined by law, as time and increased population developed change of conditions.

The first Congress under the Constitution in 1789 provided by law for a Supreme Court with a Chief Justice and five Associate Justices. The Supreme Court in 1926 consists of a Chief Justice and eight Associate Justices.

Article II, Section 2, provides that judges shall be appointed by the President "by and with the advice and consent of the Senate."

The custom of appointing judges prevailed in the States when the Constitution was written, and judges are still appointed in nine of the original thirteen States. The other States, however, have made provision for the election of judges by the people.

Many who have studied the situation think that the general average of judges is better in the States where they are appointed than in the States where they are elected, and that appointed judges do a larger volume of work and do it more efficiently.

There is also a general opinion that if provision were made for the appointment of judges in the States in which judges are now elected it would greatly improve the personnel and services of the State courts.

The Federal courts have rendered great service and proven a pillar of strength in the administration of our national government under the Constitution.

There is a widely held impression that had provision been made in the Constitution for the election instead of the appointment of Federal judges the personnel of the Federal courts and the services rendered would have been strikingly inferior to what it has been.

Chief Justice John Marshall, the outstanding Chief Justice in the history of the Supreme Court and generally regarded as one of the most eminent jurists of all time, during his seventy-fifth year, said:

> Advert, sir, to the duties of a judge. The judicial department comes home in its effects to every man's fireside. It passes on his property, his reputation, his all. Is it not to the last degree important that he should be rendered perfectly and completely independent, with nothing to influence or control him but God and his Conscience?

It was doubtless in order to make judges as independent of outside influence as possible that provision was made for their terms to continue during good behavior,

that their salaries could not be diminished during their continuance in office, and that they shall be chosen by appointment.

Section 2. (1) The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; *between a State and citizens of another State;* between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, *citizens, or subjects.*

Admiralty and maritime cases are those which arise from conditions on the sea and frequently involve the rights of citizens of foreign countries.

The italicized portion of the first paragraph of Section 2 was modified by Amendment XI, in 1798, as follows:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign state.

This amendment prevents citizens of another State or citizens or subjects of foreign states from starting suit against any one of the United States in the Federal courts.

(2) In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

Original jurisdiction here means that the case must be started in the Supreme Court.

Appellate jurisdiction means that cases may be started in inferior courts from which appeal may be taken to the Supreme Court.

(3) The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. (1) Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(2) The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

The phrase " attainder of " as used in Paragraph 2 means conviction for.

The last clause means that no other members of the family of one convicted of treason can be punished for

the offense; nor can they be prevented from inheriting property.

QUESTIONS

1. In what is the judicial power of the United States vested?
2. For what term may Federal judges hold their office?
3. What is the provision with reference to their compensation?
4. Of what is this paragraph an illustration?
5. What questions were left open to be determined by law?
6. What did Congress, in 1789, provide by law with reference to the personnel of the Supreme Court?
7. What is the personnel of the Supreme Court in 1926?
8. How are judges of the Federal courts selected?
9. What was the custom with regard to the selection of judges in the States at the time the Constitution was written?
10. In how many States are judges still appointed?
11. How are judges selected in the other States?
12. What do many think with regard to the comparative merit of the appointive and elective methods for selecting judges?
13. What does the author say regarding the service of Federal Courts?
14. What did Chief Justice John Marshall say with reference to the duties of a judge?
15. To what cases arising under the Constitution does the Federal judicial power extend?
16. What is meant by admiralty and maritime cases?
17. By what amendment are the italicized portions of Paragraph 1, Section 2, modified?
18. What is the effect of Amendment XI?
19. In what cases does the Supreme Court have original jurisdiction?
20. In what cases does the Supreme Court have appellate jurisdiction?
21. What exceptions to the appellate jurisdiction are herein provided?

22. What is meant by " original jurisdiction? "
23. What is meant by " appellate jurisdiction? "
24. What does the Constitution provide as to the trial of crimes?
25. Where must the trials be held?
26. How is treason defined in Section 3?
27. What proof of treasonable acts is required for conviction?
28. What body has the power to declare the punishment of treason?
29. In what respect is such punishment limited?
30. What does the phrase " attainder of " mean as used in Paragraph 2?
31. What is the meaning of the last clause in that paragraph?

CHAPTER XIV

ARTICLE IV: INTERSTATE AND FEDERAL RELATIONS

RELATION OF STATES TO EACH OTHER

Section 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

" Public acts " are laws passed by the State legislatures; " records " are recorded deeds, wills, etc.; and " judicial proceedings " are orders and judgments of courts.

Congress has enacted a law providing that the public acts, records, and proceedings of a State shall be proven by the signature of the proper officers who shall affix the proper seals thereto.

When a judgment is secured against a person in a court of one of the States, the decision rendered in that case may be enforced against such person in any other State. Were it not for this provision, other States might provide that the case must be tried over again with all the evidence before they would enforce the judgment that had been rendered.

Section 2. (1) The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

Immunity is freedom or exemption from duties, penalties, etc.

A State cannot deny to citizens of other States privileges granted to its own citizens. This makes for equality of opportunity throughout the nation and harmonious relations between the States. Otherwise, a State might deny to citizens of other States the right to buy and hold real estate or to enjoy even the privileges in trade or business, or to travel from one State to another without interference.

(2) A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"Treason" as here used is treason against a State. A State would not have jurisdiction of treason against the United States.

The process of removal of persons charged with crime from one State to another is a legal procedure known as interstate extradition, by which the governor of the State from which a criminal has fled makes demand upon the governor of the State to which the criminal has gone for the return of such criminal.

(3) [No person held to service or labor in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.] [1]

[1] Obsolete.

RELATION OF THE UNITED STATES TO STATES AND TERRITORIES

Section 3. (1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

This is another illustration of the intention of the makers of the Constitution to set up under it a strictly representative government.

In so important a question as the division of a State into two or more or the uniting of two or more States into one, only representative procedure is contemplated.

(2) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

" Territory " as used in this paragraph includes that territory over which the United States has jurisdiction and which is not included within the boundaries of States regularly admitted into the Union.

The Constitution was ratified by thirteen States, but since that time thirty-five States have been admitted, making a total of forty-eight; and the United States has varying territorial relationships with Alaska, Hawaii, the Philippines, and Porto Rico.

Section 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect

each of them against invasion, and, on application of the legislature, or of the Executive (when the legislature cannot be convened), against domestic violence.

The word "republican" as used in this paragraph means representative.

The men who wrote the Constitution favored a strictly representative government as distinguished from either an autocracy (hereditary government) or democracy (government by direct action).

The States adhered faithfully to the representative form of government until the dawn of the twentieth century. Since that time they have been drifting into the direct action of democracy through the enactment of laws providing for the direct primary, the initiative, referendum, recall, etc.

Many thoughtful students of government regard such departure as unwise and feel that it has tended to lower the standard and efficiency of State governments, in addition to increasing needlessly the expense of administering State governments. This subject will be more fully treated in the discussion of a republic.

This is the only time the word "guarantee" is used in the original Constitution. The question of whether the passage by the States of laws for direct action is a violation of Article IV, Section 4, of the Constitution has been presented to the Supreme Court in various ways. The Supreme Court has ruled that it is a political question that must be determined by Congress.

The guaranty of a republican (representative) form of government to every State will possibly be finally realized when through well-directed political education there may come about a sufficiently clear understanding that the representative form of government is the type which makes for orderly progress in public affairs.

The provision that the United States shall protect each of the States against invasion from other States or from foreign countries and against local violence within the States is in accord with two of the six great purposes set forth in the Preamble; namely, " to provide for the common defense " and " to insure domestic tranquillity."

QUESTIONS

1. What must be given " full faith and credit " in each State?
2. What may Congress prescribe by general laws?
3. What privileges and immunities are the citizens of each State entitled to?
4. What are " public acts," " records," and " judicial proceedings " of a State?
5. What provision has Congress made with reference to them?
6. Is a court decision rendered in a State enforceable in other States?
7. What might other States provide if it were not?
8. What is the meaning of immunity?
9. What advantage accrues from the provision regarding privileges?
10. What is the provision regarding fugitives from justice?
11. In what sense is the word " treason " used in Paragraph 2?
12. What is the meaning of extradition?
13. What body has the power to admit new States into the Union?
14. What is the provision with reference to the division of a State or the uniting of two or more States or parts of States into one?
15. Of what is this provision an illustration?
16. What is the authority of Congress over territory or property belonging to the United States?
17. What is the meaning of " territory " as used in the second paragraph of Section 3?

18. How many States ratified the Constitution?
19. How many States have been admitted since?
20. With what countries do we have territorial relationships?
21. What form of government does the United States guarantee to every State in this Union?
22. What protection does the Constitution provide that the United States shall give each of the States?
23. What does the word " republican " mean as used in Section 4?
24. What form of government did the men who wrote the Constitution favor?
25. To what form of government did the States adhere until the dawn of this century?
26. What has been the tendency during the early part of the twentieth century?
27. How do many thoughtful students regard such departure?
28. How often is the word " guarantee " used in the Constitution?
29. What has the Supreme Court ruled on the question as to whether or not laws passed by the States for direct action are constitutional?
30. What is our hope of realizing the guaranty of a republican (representative) form of government for every State?
31. In accord with what two purposes set forth in the Preamble is the provision for protecting the States against invasion or local violence?

CHAPTER XV

ARTICLES V AND VI: GENERAL PROVISIONS

ARTICLE V: PROVISION FOR AMENDING THE CONSTITUTION

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided [that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and] [1] that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

This is still another illustration of the unusual capacity of the men who wrote the Constitution to make clear, comprehensive statements with brevity and effectiveness.

In a short paragraph two methods are provided by which amendments may be proposed and two methods by which proposed amendments may be ratified; but, in each instance, it is provided that proposal for amend-

[1] Obsolete.

ment and ratification of amendment shall be made through representatives.

It is also additional evidence of constant adherence by the authors of the Constitution to the representative method of governmental procedure.

Note the effective use, in the second line, of the word "necessary." It does not provide that amendments shall be proposed whenever Congress shall deem it expedient or in concession to excessive pressure from interested minorities or in response to popular clamor, but when two-thirds of both houses "*shall deem it necessary.*"

The last clause of Article V indicates how strongly insistent the delegates to the Constitutional Convention from the smaller States were to provide for permanent equal representation of the States in the Senate.

This makes it impossible to deprive any State, without its consent, of equal representation in the Senate even though the other forty-seven States might wish to amend the Constitution to do so.

ARTICLE VI: NATIONAL DEBTS, ETC.

(1) All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

This is conclusive evidence that the men who wrote the Constitution had a high sense of honor, as they bound the new government, when set up under the Constitution, to assume all obligations that had previously been incurred by the United States. It is also evidence that they did not favor the "cancellation of debts" properly incurred, even under very trying conditions.

SUPREMACY OF THE NATIONAL GOVERNMENT

(2) This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

This paragraph is strong confirmation of the fact that the authors of the Constitution intended to provide for setting up a national government that would be strong enough to maintain itself and function at all times under all conditions.

PLEDGE — NO RELIGIOUS TEST

(3) The Senators and Representatives before mentioned, and the members of the several State legislatures, and all excutive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

There is doubt as to whether the average public official attaches sufficient importance and sincerity to taking an oath to support the Constitution.

This doubt gives rise to questions like the following:

Can members of Congress, with loyalty to their oath, propose or support legislation providing for transferring legislative power to the executive department when the Constitution provides that " all legislative power herein granted shall be vested in a congress? "

Can members of Congress, with loyalty to their oath, propose or support legislation providing for transferring

judicial power to Congress when the Constitution provides that " the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish? "

Can members of Congress, with loyalty to their oath, recommend or support proposals for amending the Constitution except " whenever two-thirds of both houses shall deem it necessary? "

Can members of State legislatures, with loyalty to their oaths, introduce or support legislation providing for submitting proposed amendments to the Federal Constitution to a popular referendum when the Constitution specifically provides that ratification shall be made by State legislatures or State conventions?

The last clause of Paragraph 3 forbidding a religious test as a qualification for public office indicates conclusively that the authors of the original Constitution favored and meant to establish and perpetuate the principle of freedom of conscience under the Constitution.

The question of making a religious test as a qualification for a State office was left to the discretion of the States, but many of the State constitutions have followed the good example of the Federal Constitution and forbidden such test.

QUESTIONS

1. When may Congress propose amendments to the Constitution?
2. In what two ways may amendments be ratified?
3. Of what is Article V an illustration?
4. What is provided in a brief paragraph in Article V?
5. Of what is it also additional evidence?
6. How are amendments in every instance to be proposed or ratified?

7. What is the comment of the author with reference to the word "necessary" as used in Article V?
8. Of what can no State be deprived without its consent?
9. Of what is this provision an indication?
10. What is the provision regarding debts incurred by the United States before the adoption of the Constitution?
11. Of what is this conclusive evidence?
12. What is the supreme law of the land?
13. Who are bound thereby?
14. Can the States by Constitutional provision or law alter the force of this provision?
15. Of what is this provision strong confirmation?
16. What public officers are bound by oath or affirmation to support the United States Constitution?
17. What does the author say regarding the taking of the oath?
18. To what sort of questions does it give rise?
19. What is the provision regarding a religious test?
20. What does this provision indicate conclusively?

CHAPTER XVI

ARTICLE VII: THE RATIFICATION OF THE CONSTITUTION

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

This is the shortest of the seven articles in the original Constitution as well as the last. It is of special importance and is deserving of careful study. It requires the ratification of the Constitution by the conventions of nine States as necessary for its establishment.

The framers of the Constitution, in providing for its ratification, as was their unvarying custom adhered strictly to the principle of representative government. It was therefore wisely decided that the ratification should be by representatives in special conventions called for that specific purpose in the various States.

If it had been submitted direct to the people by referendum, there is strong historical evidence that it would have been rejected. It is also generally conceded that if the approval of all the thirteen States instead of nine had been required the Constitution would not have been ratified.

The idea of constitutional conventions in the States was not new. The framers of the Constitution were quite familiar with it. The State constitutions had been framed by conventions authorized for that purpose.

On September 17, 1787, the same day that the Constitution was signed, the Convention passed the following resolutions, which, with the original Constitution, were afterwards transmitted to Congress:

Resolved, That the preceding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification; and that each Convention assenting to, and ratifying the same, should give notice thereof to the United States in Congress assembled.

Resolved, That it is the opinion of this Convention, that as soon as the conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a day on which electors should be appointed by the States which shall have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution. That after such publication the electors should be appointed, and the Senators and Representatives elected; That the electors should meet on the day fixed for the election of the President, and should transmit their votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives should convene at the time and place assigned; that the Senators should appoint a President of the Senate, for the sole purpose of receiving, opening and counting the votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without delay, proceed to execute this Constitution.

By the unanimous order of the Convention.

George Washington, President.

W. Jackson, Secretary.

The resolutions were accompanied by the following letter to Congress:

Sir,

We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired, that the power of making war, peace and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident — Hence results the necessity of a different organization.

It is obviously impracticable in the federal government of these States, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all — Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every State is not perhaps to be expected; but each will doubtless consider, that had her interest alone been consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so

dear to us all, and secure her freedom and happiness, is our most ardent wish.

With great respect,
We have the honor to be,
SIR,
Your Excellency's most
Obedient and humble Servants,
GEORGE WASHINGTON, PRESIDENT.

By unanimous Order of the Convention.
HIS EXCELLENCY
The President of Congress.

The above resolutions and letter illustrate again the ability possessed by the framers of the Constitution to write a clear, concise, and comprehensive statement thoroughly covering a given subject, purpose, or situation.

They also indicate how clearly these men visualized the proper and necessary procedure involved for ratifying the Constitution and installing the new government.

On September 29, Congress in turn adopted the following resolution:

That the said report (namely, the Constitution) with the resolution and the letter accompanying the same, be transmitted to the several legislatures, in order that it be submitted to a convention of delegates chosen in each State by the people thereof in conformity to the resolves of the Convention made and provided in that case.

Conventions were held in due course in all the States. A series of most interesting debates ensued in the State conventions. The old objections made to the Constitution in the Convention were threshed out again in the States where the opposition was particularly strong, and new objections were brought forward. In some of the

larger States, like New York, Pennsylvania, and Virginia, the discussion was especially prolonged and vigorous. It was due to the irresistible influence of Hamilton in New York, of Wilson in Pennsylvania, and of Madison and Marshall in Virginia, powerfully reinforced by the influence of Washington and Franklin everywhere, that the scale was finally turned in favor of ratification and the victory won.

Some of those who were opposed to the Constitution prepared and circulated pamphlets containing all kinds of specious arguments against ratification.

Alexander Hamilton, recognizing the danger of possible rejection of the Constitution, persuaded John Jay and James Madison to join him in the preparation of a series of articles explaining the purpose and meaning of the Constitution and providing reasons for its adoption in the interest of the public welfare.

These articles, eighty-five in number, appeared in the New York papers from day to day under the caption " Federalist No. 1," " Federalist No. 2," etc. In them all phases of the meaning and merit of the proposed Constitution were forcibly and clearly discussed in minutest detail.

These articles were later published in book form as *The Federalist*. It has quite generally come to be regarded as the greatest governmental discussion in the libraries of the world.

John Fiske characterized *The Federalist* as " perhaps the most famous of American books, and undoubtedly the most profound and suggestive treatise on government that has ever been written."

Henry Cabot Lodge said: " Throughout the length and breadth of the United States it did more than anything else that was either written or spoken, to secure the adoption of the Constitution."

The Federalist can be read and re-read with great

profit by all those who are seeking light on the Constitution or the science of government.

Although the proposal to insert a so-called Bill of Rights into the Constitution was rejected in the Federal Convention, the question was again raised in a number of the State conventions and in several of the States, particularly Massachusetts, a strong desire was expressed for the introduction at a later date of certain amendments.

In Elliot's *Debates,* the interested student will find the discussions which occurred in the State conventions. Some of the arguments were as follows.

James Wilson in the convention of Pennsylvania said in part:

> In a government consisting of enumerated powers, such as is proposed for the United States, a bill of rights would not only be unnecessary, but, in my humble judgment, highly imprudent. In all societies, there are many powers and rights which cannot be particularly enumerated. A bill of rights annexed to a constitution is an enumeration of the powers reserved. If we attempt an enumeration, every thing that is not enumerated is presumed to be given. The consequence is, that an imperfect enumeration would throw all implied power into the scale of the government, and the rights of the people would be rendered incomplete.

In North Carolina, Governor Johnston said in answer to arguments for a so-called Bill of Rights:

> It appears to me, sir, that it would have been the highest absurdity to undertake to define what rights the people of the United States were entitled to; for that would be as much as to say they were entitled to nothing else. A bill of rights may be necessary in a monarchical government, whose powers are undefined. Every right could not be enumerated, and the omitted rights would be sacrificed, if security arose from an enumeration. The Congress cannot assume any other

powers than those expressly given without a palpable violation of the Constitution.

In the same convention, Mr. Iredell said:

A bill of rights, as I conceive, would not only be incongruous, but dangerous. No man, let his ingenuity be what it will, could enumerate all the individual rights not relinquished by this Constitution. . . . Thus a bill of rights might operate as a snare rather than a protection.

The States ratified the Constitution as follows:

Delaware, December 7, 1787, by unanimous vote.

Pennsylvania, December 12, 1787, by a vote of 46 to 23.

New Jersey, December 18, 1787, by unanimous vote.

Georgia, January 2, 1788, by unanimous vote.

Connecticut, January 9, 1788, by a vote of 128 to 40.

Massachusetts, February 6, 1788, by a vote of 187 to 168.

Maryland, April 28, 1788, by a vote of 63 to 11.

South Carolina, May 23, 1788, by a vote of 149 to 73.

New Hampshire, June 21, 1788, by a vote of 57 to 46.

New Hampshire was the ninth State to ratify, and the Constitution was thus automatically established among the States so ratifying.

Virginia, June 26, 1788, by a vote of 89 to 79.

New York, July 26, 1788, by a vote of 30 to 27.

North Carolina, November 21, 1789, by a vote of 193 to 75.

Rhode Island, May 29, 1790, by a vote of 34 to 32.

Thus the thirteen original States were united, and the dream of " a more perfect union " began to be realized.

QUESTIONS

1. For what does Article VII provide?
2. Recite Article VII.
3. What unvarying custom is adhered to in Article VII?
4. Of what is there strong historical evidence?
5. What is also quite generally conceded?
6. Where were the State constitutions written?
7. On what day did the delegates sign the Constitution?
8. What was the purport of the resolution passed by the Convention on September 17, and who signed it?
9. Read the letter which was sent to Congress with the Constitution and Resolutions.
10. Of what are the Resolutions and letter an illustration?
11. What did they also indicate?
12. What was provided for in the resolution adopted by Congress on September 29, 1787?
13. What did the States do in response to that resolution?
14. Who powerfully influenced ratification in New York?
15. Who powerfully influenced it in Pennsylvania?
16. Who powerfully influenced it in Virginia?
17. Whose influence was powerful for ratification in these and in other States?
18. What did some of those who opposed the Constitution do?
19. What did Hamilton persuade James Madison and John Jay to do?
20. How many articles are there in *The Federalist?*
21. How is *The Federalist* generally regarded?
22. What was the comment of John Fiske?
23. What did Lodge say of its influence?
24. What does the author say?
25. What occurred in some of the State conventions with reference to a so-called Bill of Rights?
26. Where may the discussions which occurred in the State Conventions be found?
27. What did James Wilson say in the Pennsylvania Convention?

28. What did Governor Johnston of North Carolina say?
29. What did Mr. Iredell say?
30. Name the first State to ratify, and the date of its doing so.
31. Name the ninth State to ratify.
32. What happened when this State ratified?
33. In what States was the ratification unanimous?
34. Name the States that ratified during the remainder of 1787.
35. Name the States that ratified in 1788.
36. When did North Carolina ratify?
37. When did Rhode Island ratify?
38. What dream thus began to be realized?

CHAPTER XVII

THE INSTALLATION OF THE NEW GOVERNMENT

The Resolutions passed by the Constitutional Convention September 17, 1787, as we have seen, provided that each State, in assenting to or ratifying the new Constitution, "should give notice thereof to the United States in Congress assembled."

The old Congress of the Confederation was still functioning, though feebly, and by July 2, 1788, had been informed that the Constitution had received the approval of nine States.

After a good deal of discussion and consideration as to where the seat of the new government should be, it was temporarily fixed by Congress at New York.

On September 13, 1788, Congress appointed a time for the choosing of electors and members of Congress and for the election of the President and Vice-President, and designated the first Wednesday in March as the day on which the new government should be inaugurated. This latter date happened to fall on March 4th, which thus became the starting point of presidential terms.

Meanwhile, the old Congress of the Confederation was slowly expiring. Its attendance simply dwindled away, and on October 21, 1788, its records came to an end. The nation drifted along for the next several months with practically no central government.

March 4, 1789, as we have seen, was the date set for the inauguration of the new government. On that day, however, only eight Senators and thirteen Representatives had reported in New York. A circular letter was

sent out on March 11 to the absentees, requesting them to hasten their arrival. On April 1, a quorum of the House was secured, with thirty members present.

Frederick A. Muhlenberg of Pennsylvania was elected the first Speaker. On April 6, John Langdon of New Hampshire was chosen temporary President of the Senate, " for the sole purpose of opening and counting the votes for President and Vice-President of the United States."

In the presence of both houses, Mr. Langdon opened and tabulated the votes. As a result of the count, Washington was found to have been elected President by a unanimous vote of 69, while John Adams was elected Vice-President by 34 votes, no other candidate receiving more than 9. Ten States participated in the election. North Carolina and Rhode Island had not yet ratified the Constitution, and New York was having some local difficulty.

The Senate notified the candidates of their election, and the House proceeded to business.

John Adams, the Vice-President elect, who had a shorter distance than Washington to travel, arrived first, and was inaugurated on April 21, 1789.

In a letter dated April 10, President-elect Washington wrote to Hector St. John:

A combination of circumstances and events seems to have rendered my embarking again on the ocean of public affairs inevitable. How opposite this is to my own desire and inclination, I need not say. Those who know me are, I trust, convinced of it. For the rectitude of my intentions I appeal to the great Searcher of hearts; and if I have any knowledge of myself I can declare, that no prospects however flattering, no personal advantage however great, no desire of fame however easily it might be acquired, could induce me to quit the private walks of life at my age and in my situation; but if, by any exertion or services of mine, my country can be bene-

fited, I shall feel more amply compensated for the sacrifices which I make, than I possibly can be by any other means.

To John Langdon, the temporary President of the Senate, fell the duty of notifying General Washington of his election as President. Charles Thomson, who had held the position of Secretary of the old Congress, was entrusted with the official communication addressed to Washington. He started off on horseback for Mount Vernon, leaving New York on Tuesday morning, April 7. Langdon's letter of notification to Washington was as follows:

New York, April 6, 1789. I have the honor to transmit to your Excellency the information of your unanimous election to the office of President of the United States of America. Suffer me, sir, to indulge the hope that so auspicious a mark of public confidence will meet with your approbation, and be considered as a pledge of the affection and support you are to expect from a free and enlightened people.

Before leaving for New York, Washington addressed the following letter to John Langdon, under date of April 14:

I had the honor to receive your official communication by the hand of Mr. Secretary Thomson, about one o'clock this day. Having concluded to obey the important and flattering call of my country, and having been impressed with an idea of the expediency of my being with Congress at as early a period as possible, I propose to commence my journey on Thursday morning, which will be the day after to-morrow.

Under date of April 16, Washington wrote in his diary:

About ten o'clock I bade adieu to Mount Vernon, to private life, and to domestic felicity, and with a mind oppressed with more anxious and painful sensations than I have words to express, set out for New York in company with Mr. Thom-

son and Col. Humphreys, with the best disposition to render service to my country in obedience to its calls, but with less hope of answering its expectations.

Washington's journey to New York was a triumphal procession. At the various stopping places he was welcomed by deputations of citizens, congratulatory addresses, dinners, firing of cannon, and similar demonstrations of honor.

He was escorted to Alexandria, where a farewell dinner was given in his honor, and a reception was tendered him at Georgetown, Maryland.

The accounts in the press of his journey are interesting.

At Philadelphia his reception is thus described by the *Pennsylvania Gazette:*

Monday last (April 20) His Excellency, George Washington, Esq., the President-Elect of the United States, arrived in this city, about one o'clock, accompanied by the President of the State (Thomas Mifflin), Governor St. Clair, the Speaker of the Assembly (Richard Peters), the Chief Justice (Thomas McKean), the Honorable Mr. Read, the Attorney-General (William Bradford, Jr.), and Secretary Thomson, the two city troops of horse, the county troop, a detachment of artillery, a body of light infantry, and a numerous concourse of citizens on horseback and foot.

On April 23, Washington reached New York. Here another impressive scene was enacted, which the press described as follows:

Yesterday, about 2 o'clock, arrived in this city, His Excellency George Washington, Esquire, President of the United States of America. A committee of the honorable the Congress, a deputation of the State officers, consisting of his Honor the Chancellor (Robert R. Livingston) and the Adjutant-General (Nicholas Fish), accompanied by a deputation from the Corporation of this city, consisting of the recorder

(Richard Varick), received His Excellency, the President, at Elizabethtown, in the elegant barge which was previously constructed for the purpose, and rowed by thirteen pilots, under the superintendence of Captain Randall.

On the President's passing the battery, a federal salute was fired, and repeated upon his landing near the city coffee-house, where he was received by his Excellency, the Governor (George Clinton), the principal officers of the State, his Honor the Mayor (James Duane), and the principal officers of the corporation; and thence accompanied to the house prepared for his reception.

That evening Washington was tendered a banquet by Governor Clinton, at which a distinguished company was present.

The inauguration of Washington occurred on Thursday, April 30. The oath prescribed by the Constitution was administered to him by the Hon. R. R. Livingston, Esq., Chancellor of the State of New York. Immediately after he had taken the oath, the Chancellor proclaimed him President of the United States.

He delivered his inaugural address with evidences of the deepest emotion. In the evening a display of fireworks brought to a close the first day of the administration of the first President of the United States.

The seat of the national government remained in New York until December 6, 1790, when it was moved to Philadelphia, which, by an act of Congress, had been designated as the temporary seat of the national government.

There the capital remained until the second session of the Sixth Congress, in 1800, when under an act of Congress approved April 24 of that year, the President was authorized to order the removal of the various executive departments to the city of Washington, which should be the seat of the national government on and after the first Monday in December, 1800.

The picturesque spot on the banks of the Potomac where the city of Washington stands had been the farm of Daniel Carroll, one of the signers of the Constitution. It was named Washington, as an ideal and timely tribute to the memory of the " Father of his Country," who, amid the mourning of the nation, had passed away in the closing days of 1799.

The installation of our government in its permanent home was completed when the Supreme Court met for the first time in Washington, February 4, 1801. Upon that date the great John Marshall began his epoch-making career as Chief Justice, which was destined to extend over the ensuing thirty-four years.

QUESTIONS

1. When did Congress learn that nine States had ratified?
2. What place was selected as the first capital of the United States?
3. What did Congress do on September 13th, 1788?
4. When did the records of the old Congress come to an end?
5. What is the significance of March 4, 1789?
6. Who was the first speaker of the House?
7. Who was elected temporary President of the Senate?
8. What was the result of the vote for President?
9. What was the result of the vote for Vice-President?
10. How many States participated in the first Presidential election?
11. What States did not participate in the election and why?
12. When was John Adams inaugurated Vice-President?
13. What was the substance of Washington's letter of April 10 to Hector St. John?
14. Who wrote to Washington to notify him of his election?
15. Who carried the message to Mount Vernon?
16. What was the substance of Washington's reply to Mr. Langdon?

17. When did Washington leave for New York?
18. What did Washington write in his diary on April 16th?
19. What were the circumstances of Washington's journey to New York?
22. Give in your own words the story of his reception there. Philadelphia.
21. When did Washington reach New York?
22. Give in your own words the story of his reception there.
23. What was the date of Washington's inauguration in New York?
24. Who administered the oath of office to him?
25. How did Washington deliver his inaugural address?
26. When was the seat of government transferred to Philadelphia?
27. Where and under what authority was the permanent capital of the United States fixed?
28. When was this transfer of the seat of government made?
29. Who owned the land on which our national capital is located?
30. Why was the capital city named Washington?
31. When did the Supreme Court first meet in Washington?
32. What great Chief Justice then first assumed his duties?
33. How long did his administration last?

CHAPTER XVIII

THE FIRST TEN AMENDMENTS

(*Proposed September 25, 1789; adopted June 15, 1790*)

In considering the first ten amendments, it should be known that in the Constitutional Convention on September 12, 1787, a motion was made and seconded to appoint a committee to prepare a Bill of Rights. Delegates from ten States were present and the motion was lost.

The phrase "Bill of Rights" was borrowed from England. It was the title of a document issued there in 1689.

There are many who contend that the phrase "Bill of Rights" is a misnomer and who insist that rights do not come through bills but through proper individual conduct and the performance of duty in accord with wise governmental procedure.

While the Constitution was being ratified by the States, there was considerable agitation for amending the Constitution by adding a so-called Bill of Rights. The matter was discussed at considerable length in *The Federalist,* No. 84, with the conclusion

that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do?

After nine States had ratified the Constitution, the agitation for a so-called Bill of Rights still continued, and on August 31, 1788, Washington wrote to Jefferson as follows:

I wish to have no amendments made these twenty years, or not until by experience and good judgment we should be able to discern what amendments are necessary. The Constitution is so good and excellent that I do not wish to have it shaken by any speedy alterations. However desirous a number of States may be for a speedy convention and revision, I wish it may be evaded and put off until we are, as a public, able to judge upon experiment.

After the first Congress under the Constitution had been in session several weeks, the question of adding a so-called Bill of Rights received a rather lengthy discussion, which may be found in Volume I, *Annals of Congress*.

Mr. Jackson of Georgia said:

I am of the opinion we ought not to be in a hurry with respect to altering the Constitution. For my part, I have no idea of speculating in this serious manner on theory. If I agree to alterations in the mode of administering this Government, I shall like to stand on the sure ground of experience and not be treading air. What experience have we had of the good or bad qualities of this Constitution? Our Constitution, sir, is like a vessel just launched, and lying at the wharf; she is untried. It is not known how she will answer her helm, or lay her course. Let us, gentlemen, fit out our vessel, set up her masts, and expand her sails, and be guided by the experiment in our alterations. If she sails upon an uneven keel, let us right her by adding weight where it is wanting. In this way, we may remedy her defects to the satisfaction of all concerned; but if we proceed now to make alterations, we may deface beauty, or deform a well proportioned piece of workmanship.

Even Madison, who finally favored the amendments, said in the first Congress:

> It is necessary to proceed with caution. The amendments, if adopted, should be incorporated in the text itself. It appears to me that there is a neatness and propriety in incorporating the amendments into the Constitution itself; in that case the system will remain uniform and entire; it will certainly be more simple, when the amendments are interwoven into those parts to which they naturally belong, than it will if they consist of separate and distinct parts. . . .

The position taken by Madison raises the question: Would it have been better form to write the amendments into the body of the Constitution where they apply instead of adding them as appendages?

If, as suggested by Madison, amendments had been incorporated in the Constitution, re-writing such portions of it as are affected by amendments, the information would then be just where one would naturally look for it. That would make it necessary to give careful and discriminating thought in proposing amendments.

The present method of adding amendments as appendages makes it necessary for the student to discover which parts have been changed by amendment and then, after locating the amendments as appendages, determine just what changes have been effected by the amendments.

Another interesting question is: Was it advisable, after the original Constitution had been written as Articles I to VII, to begin adding amendments as Article I, Article II, etc.; so that, there now are in the Constitution two Articles I, two Articles II, etc.?

This is confusing; because, for example, when reference is made to Article III, one is uncertain whether reference is made to the Judicial Department or to the third amendment.

The most ardent advocate of the first ten amendments would undoubtedly agree that it would have been better to have added them as Article VIII, Sections 1 to 10. Had that been done, the other amendments would doubtless have been added as Article IX, etc., thus avoiding confusion.

After considerable discussion, the first Congress finally adopted the following resolution:

The Conventions of a number of the States, having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best ensure the beneficent ends of its institution:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two thirds of both Houses concurring, that the following Articles be proposed to the Legislatures of the several States, as Amendments to the Constitution of the United States, all or any of which Articles, when ratified by three fourths of the said Legislatures, to be valid to all intents and purposes, as part of the said Constitution.

Twelve articles were proposed, of which the first two were rejected by the States and the remaining ten were ratified and written into the Constitution as Articles I to X.

The first article proposed which was rejected read as follows:

After the first enumeration required by the first Article of the Constitution, there shall be one Representative for every thirty thousand, until the number shall amount to one hundred, after which, the proportion shall be so regulated by Congress, that there shall be not less than one hundred Representatives, nor less than one Representative for every forty thousand persons, until the number of Representatives shall

amount to two hundred, after which the proportion shall be so regulated by Congress, that there shall not be less than two hundred Representatives, nor more than one Representative for every fifty thousand persons.

The second proposed amendment which was also rejected was as follows:

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

The matters referred to in these two proposed amendments have all been regulated by statute, which indicates clearly that there was no need for them and that had they been ratified they would have simply proved confusing surplusage.

There are two schools of thought regarding the first ten amendments. One school holds that they are unnecessary, but that there is so much merit in the original Constitution that it has worked better than any other plan of government despite this handicap; the other school contends that they have greatly added to the value of the Constitution.

In considering the first ten amendments, it is essential to have clearly in mind the six great purposes set forth in the Preamble to which the Constitution was dedicated and which public officials — national and State — are pledged to uphold.

A part of the Preamble of the Bill of Rights of 1689 is as follows:

Whereas the late king James the Second by the assistance of divers evil counsellors, judges and ministers employed by him did endeavour to subvert and extirpate the Protestant religion and the laws and liberties of this kingdom.

By assuming and exercising a power of dispensing with and suspending of laws, and the execution of laws, without consent of parliament.

It can readily be seen that what would be appropriate material under such a preamble might be unnecessary in a Constitution dedicated to the six purposes set forth in the Preamble of our Constitution.

AMENDMENTS WHICH WERE RATIFIED

Article I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Article III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

Article IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Article VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

Article VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The first eight amendments were inspired by the Bill of Rights of 1689 and other ancient documents; and a goodly portion of the language in the first eight amendments is taken verbatim from those documents.

Article IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article IX is surplusage. Such rights as were in the people and not enumerated in the Constitution naturally were retained by the people, as they had not been transferred elsewhere.

Article X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Article X is surplusage. Prior to the adoption of the Constitution the powers were lodged in the States respectively or in the people. Certain powers were granted to the Federal government under the Constitution, and it is a self-evident proposition that such powers as were not so granted remained in the States or in the people. There was no other place for them to go.

Surplusage is always dangerous in contracts, laws, or constitutions; not only because it is a waste of words,

but because it may convey the wrong impression, which is exactly what happened in the case of this amendment.

Before the government established by the Constitution had been in existence ten years, Jefferson and Madison, the authors of this amendment, sponsored the Kentucky and Virginia Resolutions, which were passed by the legislatures of those States in 1798, and which have come to be regarded as embodying the "Doctrine of Nullification."

Those Resolutions assumed that the Constitution provided for a compact between the States to which the States merely acceded, but it provided for a union of all the people of all the States and was ratified and adopted.

Later on, Amendment X and the Virginia Resolution were the basis of the South Carolina controversy.

On January 21, 1830, Senator Hayne of South Carolina, speaking in the United States Senate, said:

> Such, sir, are the high and imposing authorities in support of the "Carolina doctrine," which is, in fact, the doctrine of the Virginia resolutions of 1798.

On February 15, 1833, Senator Calhoun of South Carolina, speaking in the United States Senate, said:

> But it is contended that the Constitution has conferred on the Supreme Court the right of judging between the States and the General Government. Those who make this objection overlook, I conceive, an important provision of the Constitution. By turning to the tenth amended article, it will be seen that the reservation of power to the States is not only against the powers delegated to Congress, but against the United States themselves, and extends, of course, as well to the judiciary as to the other departments of the government.

Amendment X is perfectly harmless when literally interpreted, but the Kentucky and Virginia Resolutions and the discussions of Senators Hayne and Calhoun

overlooked two important provisions in the Constitution as follows:

This Constitution, and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; . . . to controversies to which the United States shall be a party; to controversies between two or more States; . . . between citizens of different States. . . .

QUESTIONS

1. When were the first ten amendments proposed? When adopted?
2. Where did the phrase, " Bill of Rights," originate?
3. What do many contend regarding that phrase?
4. What is one of the statements in *Federalist*, No. 84, regarding " bills of rights "?
5. What did Washington write on August 31, 1788?
6. What did Mr. Jackson of Georgia say in the first Congress with regard to altering the Constitution?
7. What did Madison say?
8. What question is raised by Madison's position?
9. What is another interesting question? Why?
10. What resolution was adopted by the first Congress?
11. How many amendments were proposed?
12. How many were ratified?
13. What was the first article proposed?
14. What was the second article proposed?
15. What has experience proven with regard to them?
16. What are the attitudes of the two schools of thought regarding the first ten amendments?
17. What is it essential to have in mind when considering them?

18. What is a part of the Preamble of the Bill of Rights of 1689?
19. What can be readily deduced from it?
20. From what documents was much of the language in the first eight amendments taken?
21. What is the author's comment on Amendment IX?
22. What is the author's comment on Amendment X?
23. Why is surplusage dangerous?
24. What happened within the first ten years of the new government?
25. What did the Kentucky and Virginia Resolutions assume?
26. For what did the Constitution actually provide?
27. What was the basis of the so-called South Carolina Doctrine?
28. What did Senator Hayne say in 1830?
29. What did Senator Calhoun say in 1833?
30. What two important provisions in the Constitution did the above contentions overlook?

CHAPTER XIX

THE LAST NINE AMENDMENTS

Article XI

[Proposed September 5, 1794; adopted January 8, 1798]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

Amendment XI is a most proper one, because it affects the plan of procedure in the Judicial Department.

After several years of experience, it was decided not to permit citizens of another State or citizens or subjects of any foreign state to bring suit against any one of the United States in the Federal Courts.

This amendment affects eleven words in Article III, Section 2, Paragraph 1, as follows:

between a State and citizens of another State; . . . citizens, or subjects (of foreign states).

This amendment could have been made by re-writing that portion of Paragraph 1, Section 2, Article III, to which it applies in such a way as to incorporate the exceptions made by the amendment.

The information would then be just where one would naturally look for it, in Article III, which pertains to the Judicial Department, and it would not then be necessary to look for the amendment as an appendage and interpret its meaning as related to the original Constitution.

It is quite possible that the amendment would have been made in that form had it not been for the custom established by the method of adding the first ten amendments as appendages.

Article XII

[Proposed December 12, 1803; adopted September 25, 1804]

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States

shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President. A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment XII supplants Paragraph 3, Section 1, Article II, and a portion of it is a repetition of that paragraph.

The chances are that had it not been for the custom already established of including amendments as appendages, Paragraph 3, Section 1, Article II, would have been eliminated and this amendment written into the body of the Constitution instead.

The Constitution is nearly a page longer than it would have been had the amendment been inserted where it applies and the paragraph which it supplants eliminated; we are required to buy extra paper, and print in the very center of the Constitution nearly a page of material that is extinct, and search for the amendment, as an appendage, through which the change is made.

One important difference between Amendment XII

and the provision in the original Constitution which it supplanted is that this amendment provides that electors

shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President;

whereas, by the original provision, electors voted for two persons without designation, and the person having the greatest number of votes became President; the one receiving the next highest number of votes became Vice-President.

This amendment indicates that we were drifting toward the two-party idea of procedure. There is no evidence in the original Constitution that its authors contemplated a two-party system. It would seem that the authors of the Constitution assumed that there would be one party standing steadfast for the Constitution and for administering the government in harmony with its purposes and plans and that would combat effectively such opposition from other parties as might be contrary to the spirit and plan of the Constitution.

Article XIII

[Proposed February 1, 1865; adopted December 18, 1865]

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

The purpose of Amendment XIII was to provide for the abolition of slavery within the United States.

It could have been inserted in Section 9 of Article I if the method had been adopted of writing amendments into the Constitution instead of adding them as appendages.

Article XIV

[Proposed June 16, 1866; adopted July 21, 1868]

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The purpose of this section of Amendment XIV was to give to former slaves the status of citizenship.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which

the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The purpose of this section was to rearrange the apportionment of Congressional districts and Presidential electors as previously explained.

Note the language in this section: "But when the right to vote at any election . . . is denied to any of the male inhabitants of such State." This indicates clearly that it was the understanding as late as 1868 that the question of who could exercise the right of franchise should be determined by the States.

Section 3. No person shall be a Senator, or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

The purpose of this section was to make further qualifications for eligibility to public office.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United

States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

The purpose of Section 4 was to make further provision with reference to national debts.

Article XV

[Proposed February 27, 1869; adopted March 30, 1870]

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XV is significant in that it modifies the intent of the authors of the Constitution, which was to leave the question as to who could exercise the right of franchise to the discretion of the States.

Article XVI

[Proposed July 31, 1909; adopted February 25, 1913]

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Amendment XVI modifies Sections 2 and 9 of Article I. This amendment could have been made by in-

serting the words " except income " in Paragraph 3, Section 2, Article I, and in Paragraph 4, Section 9.

The government operated successfully for a century and a quarter before income taxes were authorized by the Constitution. There is considerable difference of opinion as to the wisdom of making the change.

Article XVII

[Proposed May 15, 1912; adopted May 31, 1913]

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

(2) When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

(3) This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Amendment XVII modifies Sections 3 and 4 of Article I, as explained in Chapter VIII.

This amendment could have been made by substituting the word " people " for the word " legislature " in Paragraph 1, Section 3, Article I.

Many regard this amendment as a mistake and feel

that it has had an unwholesome effect upon the personnel and services of the United States Senate.

Article XVIII

[Proposed December 19, 1917; adopted January 29, 1919]

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Amendment XVIII assumes to regulate by Constitutional amendment a question that had been regarded as a matter for regulation by State statutes.

If it was necessary for the Federal Constitution to deal with this highly important problem, it would seem that a more effective and proper amendment would be "Congress shall have power to define and regulate the manufacture and sale of intoxicating liquors."

Such a provision would make it possible to deal with questions of regulation by statute; so that, if through experience and experiment improvements in the method of procedure should be suggested, statutes could be readily amended and made adaptable to a better means of progress.

Article XIX

[Proposed June 5, 1919; adopted August 26, 1920]

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

The purpose of this amendment is to grant women the privilege of franchise throughout the United States on an equality with men.

This amendment makes no provision for women holding public office, and there is no provision in the Constitution for the eligibility of women to the offices of President, Vice-President, United States Senator, or Representative.

In the various sections providing qualifications for these offices, the pronoun " he " is always used. The only possible justification that can be offered for permitting women to assume elective offices in the Federal government is the possibility of the pronoun " he " being construed as inclusive of " she."

Regardless of what our opinion may be with reference to the merit or demerit of any of the provisions in the Constitution, our attitude as good citizens should be that the Constitution is the supreme law of the land and all provisions in it should be strictly enforced and literally obeyed.

QUESTIONS

1. What is Amendment XI?
2. What is its effect?
3. What was decided after several years of experience?

4. What words are affected by Amendment XI?
5. How could the amendment have been made in the original Constitution?
6. What advantage would accrue from writing this amendment into the Constitution instead of making it an appendage?
7. What portion of the original Constitution is supplanted by Amendment XII?
8. What is the effect of adding Amendment XII as an appendage?
9. What is one of the important differences between Amendment XII and the provision in the original Constitution?
10. What is the author's comment on the two-party system?
11. What was the purpose of Amendment XIII?
12. Where could it have been inserted?
13. What is the purpose of Section 1 of Amendment XIV?
14. What is the purpose of Section 2?
15. What is the purpose of Section 3?
16. What is the purpose of Section 4?
17. Why is Amendment XV significant?
18. What is Amendment XVI?
19. How could this amendment have been made in the original Constitution?
20. What is Amendment XVII?
21. How could this amendment have been made in the original Constitution?
22. What is the author's comment on Amendment XVIII?
23. What is the purpose of Amendment XIX?
24. For what does the amendment make no provision?
25. What is the only possible justification for permitting women to assume elective offices in the Federal government?
26. What should be our attitude with reference to all provisions in the Constitution?

CHAPTER XX

A REPUBLIC

(*Representative Government*)

One of the outstanding features and chief merits of the Federal Constitution is that it provides for a strictly representative form of national government and in Article IV, Section 4, guarantees a representative form of government to each of the States.

A Republic is the standard form of government adopted by the Constitution for the nation and for the States. This is a fundamental fact which is too frequently overlooked, resulting in much confusion.

There are just three basic forms of government.

An autocracy is a form of government in which a monarch derives power through heredity and permits too little participation by the people, with a final result of reaction against tyranny. It creates the kind of condition in the world of government that would be created in the field of medicine if we were required to engage the services of a doctor whose father was our father's doctor, whether we wanted to or not.

A republic is a form of government in which power is vested in regularly selected representatives with authority to act and decide public questions. It provides just enough participation by the people in governmental affairs and leads to orderly progress. It creates the kind of condition in the world of government that is created in the field of medicine when, in the event of our illness, we select a doctor whom we regard as qualified to treat our ailment.

A democracy is a form of government in which the people speak and act directly on public questions. It permits too much participation by the people and finally results in chaos. It creates the kind of condition in the world of government that would be created in the field of medicine if, in the event of our illness, we were to submit to a popular vote what medicine we should take, and then take it regardless of the consequences.

A republic does not bring a perfect condition, but it is the best form that human agency can devise. It is the golden mean between the extremes of autocracy and democracy.

The authors of the Constitution seemed to understand clearly the meaning and importance of the law of the "golden mean" and applied it effectively to the science of government. It is that middle point or degree in any quality, state, or activity which avoids the dangers or errors of either extreme by the striking of a well-balanced medium.

In the study of any science or of any problem we can learn much by observing the laws of nature. Too little food means starvation; the proper amount of food makes for health; too much food means gluttony. Again, too little seed means meager crops; just enough seed means the best possible crops; too much seed means crops sickly from over-crowding. The application of the principle can be clearly seen by stating it graphically as follows:

EXTREME	GOLDEN MEAN	EXTREME
Starvation	Nourishment	Gluttony
Drought	Moisture	Flood

It is plain that not much is accomplished by discussing the value of either extreme, unless, indeed, it be to emphasize the great value of the mean. There is no

sphere of activity in which the extremes are more disastrous or the mean more beneficial than in the realm of government. Some illustrations of the results are as follows:

EXTREME	GOLDEN MEAN	EXTREME
Autocracy	*Republic*	*Democracy*
Autocrats	Statesmen	Demagogues
Bondage	Liberty	License
Tyranny	Justice	Anarchy
Reaction	Progress	Chaos

The constitution was written in a convention by selected representatives, and there is convincing evidence running all through the Constitution that the men who wrote it intended to provide for strictly representative government in the nation and in the States, as proved by the following significant provisions:

All legislative powers herein granted shall be vested in a Congress of the United States.

The executive power shall be vested in a President of the United States.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The United States shall guarantee to every State in this Union a republican (representative) form of government.

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or,

on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments . . . when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof.

Thus we see that nowhere in the Constitution is there any suggestion of government through direct action, which is democracy. The Constitution provides for vesting the legislative, executive, and judicial powers in representatives. It guarantees a representative form of government to every State in the Union and provides for its ratification and amendment through representatives.

The form of government established by the Constitution is discussed in *The Federalist,* Numbers 10, 14, and 39, all written by James Madison. In *The Federalist,* Number 10, he said:

Democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. . . . A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking.

In *The Federalist,* Number 14, he wrote:

The adversaries of the new Constitution are availing themselves of the prevailing prejudice with regard to the practicable sphere of republican administration, in order to supply, by imaginary difficulties, the want of those solid objections which they endeavor in vain to find. . . . It seems to owe its rise and prevalence chiefly to the confounding of a republic with a democracy, applying to the former reasonings drawn from the nature of the latter. The true distinc-

tion between these forms was also adverted to on a former occasion. It is, that in a democracy the people exercise the government in person; in a republic they administer it by their representatives. . . . Under the confusion of names, it has been an easy task to transfer to a republic observations applicable to a democracy only.

In *The Federalist,* Number 39, he went on to say:

If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be . . . a government which . . . is administered by persons holding their offices during pleasure, for a limited period, or during good behavior.

In the first session of Congress, in 1789, when proposed amendments were being discussed, Representative Tucker of South Carolina proposed that Congress offer to the States for consideration an amendment "giving the people the right to instruct their representatives."

In opposing the proposed amendment, Representative Hartley of Pennsylvania said:

Representation is the principle of our government; the people ought to have confidence in the honor and integrity of those they send forward to transact their business; their right to instruct them is a problematical subject. We have seen it attended with bad consequences both in England and America. . . . I have known within my own time so many inconveniences and real evils arise from adopting the popular opinions of the moment, that . . . I hope this government will particularly guard against them, at least that they will not bind themselves by a constitutional act, and by oath, to submit to their influence; if they do, the great object which this government has been established to attain will inevitably elude our grasp on the uncertain and veering winds of popular emotion.

Representative Clymer, also of Pennsylvania, said:

Do gentlemen foresee the extent of these words? If they have a constitutional right to instruct us, it infers that we are bound by those instructions. . . . This is a most dangerous principle, utterly destructive of all the ideas of an independent and deliberative body, which are essential requisites in the legislatures of free governments. . . .

It is the duty of a good representative to inquire what measures are most likely to promote the general welfare, and, after he has discovered them, to give them his support. Should his instructions, therefore, coincide with his ideas on any measure, they would be unnecessary; if they were contrary to the conviction of his own mind, he must be bound by every principle of justice to disregard them.

Representative James Madison, who was a delegate to the Constitutional Convention and later served two terms as Secretary of State and as President of the United States, said:

Suppose they instruct a representative, by his vote, to violate the Constitution; is he at liberty to obey such instructions? Suppose he is instructed to patronize certain measures, and from circumstances known to him, but not to his constituents, he is convinced that they will endanger the public good, is he obliged to sacrifice his own judgment to them?

The proposed amendment was not submitted — a fact which indicates that Congress at that time understood clearly the importance of adhering to representative government, as provided in the Constitution and emphasized in *The Federalist*.

For more than a century not only the nation at large but the States also adhered closely to the convention plan of naming candidates for office, and entrusted the making, interpreting, and enforcing of the laws to chosen representatives. Under the representative plan of procedure we made progress unparalleled in the history of government.

Toward the latter part of the last century agitation became insistent for direct primaries, the initiative, the referendum, and the recall, and many of the States have enacted legislation providing for these methods of direct action.

Direct primaries are a substitute for the delegate convention plan of nominating candidates for public office, providing for their nomination by a direct vote of the people.

The *initiative* is a system whereby a given number of voters may, on petition, propose a law and require the legislature to submit it to a popular vote.

The *referendum* is a system which requires the reference of an act passed by the legislature to the voters for approval or rejection.

The States have gradually adopted the custom of submitting proposed State constitutions to a referendum of the people for ratification. It will be generally conceded, however, that no State has adopted a constitution so well adapted to State government as the Federal Constitution was adapted to the national government.

The *recall* is a system for submitting to the voters the question whether or not a public official, regularly elected for a definite term, shall be removed before the term expires, without the opportunity of a trial based on the rules of evidence.

These innovations were inspired because of charges that conventions were not naming good candidates, that the legislative bodies were enacting undesirable laws, and that public officials were frequently untrustworthy.

Unfortunately, there was much justification for these contentions, but it is extremely doubtful if the introduction of the direct action of democracy is the proper remedy, as the evils resulting from the change seem greater than those which it sought to rectify. The real remed-

it would seem, is to continue the plan of representative government provided by the Constitution, and to exercise greater vigilance and discretion in the selection of delegates to attend conventions for nominating candidates for executive and legislative positions.

Perhaps the point can be made clearer by way of analogy if we apply the principle of the direct action of democracy to the great game of baseball.

If in the game of baseball umpires were chosen by virtue of their fathers' having been umpires, it can readily be seen that through autocracy baseball would degenerate just as hereditary government always has.

We play baseball as a republic, based on strictly representative government. The selection of the players and the umpire is generally left to those who are interested in baseball and understand the game.

Players are selected because of their ability to play. The umpire is selected for his knowledge of the rules and his moral courage to make decisions in accordance with them, regardless of public clamor of the moment in the bleachers.

Under these conditions, baseball as played is a wonderful game, and we have excellent players and efficient umpires, and enormous crowds are handled with little disorder.

Suppose that the method of conducting baseball should be changed and provision were made for selecting members of the teams through direct primaries by a vote of the people in attendance at the game, or for referring the rulings of the umpire to the bleachers for decision by referendum, or for circulating a petition for the initiative to change the rules of the game, or to recall the umpire or some of the players, it can readily be seen that chaotic conditions would result.

If the selection of the members of debating teams and football and baseball teams were left to a vote of the

student body in high schools and colleges, it is not likely that championship teams would be assembled.

Apply the principle of the direct action of democracy to the fields of engineering, surgery, and other activities and consider the inevitable results. Such contemplation will help us to appreciate the wisdom of the authors of the Constitution in understanding that in the plan of things great responsibility was placed upon a wise exercise of the law of selection, which is the essence of a republic.

QUESTIONS

1. What is one of the outstanding features of the Constitution?
2. What form of government was adopted by the Constitution?
3. What is an autocracy?
4. What is a republic?
5. What is a democracy?
6. What law did the authors of the Constitution seem to understand?
7. What is the " golden mean " ?
8. Illustrate with reference to the laws of nature.
9. Illustrate with reference to the natural results of the three forms of government.
10. What are the six significant provisions in the Constitution proving that it provides for a representative form of government?
11. What did James Madison say regarding the matter in *The Federalist,* Numbers 10, 14, and 39?
12. What did Representative Tucker propose in the first session of Congress?
13. What was said in opposition by Representative Hartley?
14. By Representative Clymer?
15. By Representaive Madison?
16. For what did agitation become insistent during the latter part of the last century?
17. What are *direct primaries?*

18. What is the *initiative?*
19. What is the *referendum?*
20. What is the *recall?*
21. What inspired these innovations?
22. Illustrate the application of the three forms of government to the game of baseball.
23. What is the essence of a republic?

CHAPTER XXI

A MODEL FOR CONSTITUTION MAKING

In that great valedictory to the American people known as his Farewell Address, George Washington expressed the earnest hope that " the Constitution may be sacredly maintained — that its administration in every department may be stamped with wisdom and virtue — that the happiness of the people of these states may be made complete by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it."

These words were uttered on September 17, 1796, just nine years after the adoption of the Constitution. The letters of Washington quoted in Chapter I show how deeply impressed he was by the wondrous transformation which it had produced, in bringing order out of chaos.

After seven years of testing and experience, Washington's opinion of the beneficent effects of the Constitution was so strongly confirmed that he recommends it to the " adoption of every nation which is yet a stranger to it."

Washington was a man who weighed his words carefully, and this statement in the Farewell Address can mean nothing less than that he regarded the Constitution as worthy to serve as a model for the constitutions of other nations.

Shortly after the adoption of the Constitution, a copy of it was called to the attention of William Pitt, who at twenty-four years of age was Prime Minister of Eng-

land, and is regarded by many as the greatest prime minister England has ever produced.

It is said that he read the most difficult works of science and philosophy with a high degree of intelligence when he was nine years of age. He held England steady while the continent of Europe was convulsed in the Napoleonic wars.

After Pitt had made a study of the Constitution, he declared: " It will be the wonder and admiration of all future generations and the model of all future constitutions."

It is interesting and suggestive to note that the foremost American and the most eminent British statesman of that day so fully agreed on the subject that Washington expressed the hope and Pitt made the prophecy that our Constitution would serve as the model for constitution making. It is also significant that ours is the oldest written constitution now functioning in the world.

Wherever there is need of government for political purposes, for educational purposes, for commercial purposes, for social or benevolent purposes, the Federal Constitution offers a standard pattern for the construction of a constitution which will function with the highest degree of efficiency.

As has been said, the Constitution consists of plan, purposes, powers, and restraints; and one of the most interesting and effective methods of studying the Constitution is to use it as a criterion in testing the merit of other constitutions.

In testing and judging the merits of the constitution of a foreign country, these questions should naturally arise:

Are the purposes briefly, simply, and clearly stated?

Are they so comprehensively stated that all proper activities of government could be classified under one

or more of the purposes set forth, as is true of the Preamble of our Constitution?

Other questions, affecting the main body of the Constitution, would be: Does it divide the government into legislative, executive, and judicial departments, vesting them with sufficient power to enable the government to function effectively and curbing those powers with proper restraints?

Does it provide for a well-balanced distribution of powers, making for independence and yet effective co-operation between the departments?

Does it contain only what are properly constitutional provisions and avoid the inclusion of what should be properly statutory enactments?

Does it provide for the appointment of judges and all other public officials, save only the executive and members of the legislative body?

Does it set forth clearly and wisely the relation of the national government to the lesser governments within its jurisdiction and the relation of the lesser governments to each other?

Does it avoid any of the elements of autocracy, hereditary government, or the direct action of democracy and provide for a republic, a strictly representative form of government?

Does it provide for a representative method of procedure in proposing and ratifying amendments?

Does it provide for representative procedure in selecting public officials to enact legislation and administer the government?

Does it guarantee a representative form of government to the lesser governments within its jurisdiction?

It was recently reported in the newspapers that the President of Poland, in an interview with an American journalist, stated that one of the causes of the governmental difficulties in his country was that the executive

department did not have the powers which it exercises in the United States under the Federal Constitution, and that he hoped to see this weakness corrected.

Many of the countries of Europe are experimenting with new constitutions, and others are tinkering with old ones. Many of their difficult questions might be answered by using our Federal Constitution as a model.

To judge the merits of any of our State constitutions, most of the questions suggested for testing the constitutions of foreign countries would apply.

One of the chief aims of any State should be to do its part toward making a more perfect union, and the purposes set forth in the Preamble comprehend all proper activities in State government.

With the exception of nine of the original thirteen States, all other States provide for the election of judges, which is a departure from the Federal Constitution, as it provides for the appointment of judges.

Many State constitutions provide for the election of the governor's cabinet, which is another departure. The result is that often the attorney general devotes more energy to promoting his own political ambitions than to fulfilling his duties as legal adviser to the State administration.

Frequently State treasurers, who should be merely clerical officers working under the direction of the executive and legislative body, assume the privilege of handling State funds in such a way as to reimburse themselves for their excessive campaign expenses in securing the election.

Similar observations could be made of other members of governors' cabinets, which are not true of the President's cabinet, since the latter is appointed.

Most of the States have enacted laws for direct primaries as a method of nominating candidates, and for the initiative and referendum as a means of enacting

legislation, although Article IV, Section 4, of our Constitution provides:

> The United States shall guarantee to every State in this Union a republican (representative) form of government. . . .

In the State constitutions there is too little discrimination between what are properly constitutional provisions and what are properly statutory enactments, which has resulted in writing into the constitutions much material that should properly be statutory enactments.

These are only a few illustrations of how the makers of State constitutions have failed to follow the plan of the Federal Constitution.

We may fairly regard the plan of the Constitution as applicable also to organizations which are not political. In providing a constitution for an educational institution, for example, it is important that the purposes be well stated and that the plan for setting up a mechanism to administer the affairs of the institution be carefully worked out.

If some one could happily make as good a statement of the purposes of education as the Preamble makes of the purposes of government, it would be a great contribution.

Other questions would be:

Is the plan for setting up the departments of the institution well conceived?

Are the powers properly vested in the officials of the institution?

Are those powers well distributed and carefully restrained?

Are such matters as should be a part of the by-laws omitted from the constitution?

Does it provide for the representative method of procedure?

And so forth.

The same rules apply in making a constitution for a commercial institution, an industrial organization, an athletic association, a literary society, a fraternal order, or any other body.

To sum up: The main questions involved in writing a constitution should always be:

Does it set forth in its preamble a brief, clear, correct statement of the purposes of the organization or institution for which it provides?

Is the plan for vesting sufficient power, making a proper distribution of powers, and curbing those powers with well-balanced restraints wisely conceived?

Does it include only such matters as are properly constitutional provisions and exclude all material that should properly be statutory enactments or by-laws?

It is because our Federal Constitution fulfills these fundamental requirements so well that we are justified in calling it a model.

QUESTIONS

1. What hope did Washington express in his Farewell Address?
2. When was his Farewell Address delivered?
3. What did that statement of Washington's mean?
4. Who was William Pitt?
5. What did he say of our Constitution shortly after it was written?
6. Which is the oldest written constitution now functioning?
7. What does the author say with reference to our Federal Constitution as a pattern?
8. What questions should be considered in testing and

judging the merits of the constitution of any foreign country?

9. What is the substance of a recent interview by an American journalist with the President of Poland?
10. How might the constitution makers of foreign countries overcome many of their difficulties?
11. What questions would apply in judging the merits of State constitutions?
12. How do most of the States provide for the selection of judges?
13. How does the Federal Constitution provide for their selection?
14. How are the cabinet members in many State executive departments chosen?
15. How are the members of the President's cabinet selected?
16. What type of laws have most of the States enacted during recent years?
17. Concerning what is there too little discrimination in the State constitutions?
18. What are some of the essentials for writing a good constitution for an educational institution?
19. What are the main questions involved in writing a constitution for any type of organization?

APPENDIX I

THE MEN WHO WROTE THE CONSTITUTION

DELEGATES WHO SIGNED THE CONSTITUTION

DELAWARE

George Read — Age, 53 years; lawyer; president of convention which formed first constitution of Delaware; Acting President of Delaware; member of Continental Congress; delegate to Annapolis Convention; United States Senator; Chief Justice of Supreme Court of Delaware.

Gunning Bedford — Age, 40 years; lawyer; graduate College of New Jersey; valedictorian of his class; member of Delaware legislature; member of Continental Congress; Attorney-General of Delaware; United States Judge for the District of Delaware; lieutenant-colonel, Revolutionary War; aide-de-camp to Washington.

John Dickinson — Age, 55 years; lawyer; student at the Temple, London; member of Continental Congress; judge; signer of Articles of Confederation; President of State of Delaware; President of Supreme Executive Council of Delaware and of Pennsylvania; President of Annapolis Convention; famed for his " Farmer's Letters "; founder of Dickinson College at Carlisle; brigadier-general, Revolutionary War.

Richard Bassett — Age, 42 years; lawyer; member Delaware Constitutional Convention; member of Continental Congress; delegate to Annapolis Convention; member Delaware Ratifying Convention; first U. S. Senator to cast his vote in favor of locating capital on the Potomac; Chief Justice of the Court of Common Pleas in Delaware; Governor of Delaware; United States Circuit Judge; captain of Dover Light Horse, serving under Washington in Revolutionary War.

Jacob Broom — Age, 35 years; publicist; delegate to Annapolis Convention; filled offices of public trust in Delaware; wrote the address to General Washington, December 17, 1783, noted for its excellent composition; effective in debate in Constitutional Convention.

PENNSYLVANIA

Benjamin Franklin — Age, 81 years; versatile benefactor; greatest diplomat and philosopher of the age; scientist and inventor; agent of Pennsylvania in England to settle difficulties with proprietaries; postmaster of the Colonies; President of Pennsylvania; member of Continental Congress; signer of the Declaration of Independence, Treaty of Alliance with France, and Treaty of Peace with England; a great harmonizing influence in the Constitutional Convention.

Jared Ingersol — Age, 37 years; lawyer; student at Middle Temple, London; graduate of Yale; Attorney-General of the State of Pennsylvania; member of Continental Congress; President of the District Court for the city of Philadelphia.

Thomas Mifflin — Age, 43 years; business man; graduate of College of Philadelphia; president of convention to frame constitution for Pennsylvania; member and speaker of Pennsylvania Assembly; President of Supreme Executive Council; member of Continental Congress; President of Congress after Revolution; Governor of Pennsylvania; President of State Constitutional Convention; major-general, Revolutionary War; first aide-de-camp to Washington.

Robert Morris — Age, 53 years; merchant and financier; Vice-President of the Committee of Safety; member of Legislature of Pennsylvania; member of Continental Congress; signer of Declaration of Independence; Superintendent of Finance; founded Bank of North America; nominated Washington for President of the Constitutional Convention; United States Senator; greatly aided in financing the American Army during Revolutionary War.

George Clymer — Age, 48 years; lawyer and merchant; member of Council of Safety; member of Continental Congress; member of Pennsylvania Legislature; signer of Decla-

ration of Independence; member of Pennsylvania Ratifying Convention; member of Congress under Constitution; strong advocate of representative government.

Thomas Fitzsimons — Age, 46 years; merchant; member of Continental Congress; member of General Assembly of Pennsylvania; member of Congress under Constitution; trustee of the University of Pennsylvania; captain, Revolutionary War.

James Wilson — Age, 45 years; lawyer; student at Glasgow, St. Andrew's, and Edinburgh; member of Provincial Convention; member of Continental Congress; signer of Declaration of Independence; member of State Constitutional Convention; member of Pennsylvania Ratifying Convention; chairman of committee reporting first draft of U. S. Constitution; Associate Justice of Supreme Court of the United States; almost constantly in public service; professor of English literature, professor of law, and trustee, University of Pennsylvania; brigadier-general of militia, Revolutionary War.

Gouverneur Morris — Age, 35 years; lawyer; graduate of Columbia College; member of Provincial Congress; member of Continental Congress; member of New York Legislature; minister to France; United States Senator from New York; in the Constitutional Convention he said: "The whole human race will be affected by the proceedings of this convention."

NEW JERSEY

William Livingston — Age, 63 years; publicist; graduate of Yale; member of Continental Congress; eleven times Governor of New Jersey; appointed minister to Holland but declined; brigadier-general, Revolutionary War.

David Brearly — Age, 42 years; lawyer; member of Provincial Congress; Chief Justice of New Jersey; President of New Jersey Ratifying Convention; United States district judge for New Jersey; lieutenant-colonel, Revolutionary War.

William Paterson — Age, 42 years; lawyer; graduate of College of New Jersey; secretary of Provincial Congress;

signer of Declaration of Independence; member of Continental Congress; delegate to Annapolis Convention; ten times Attorney-General of New Jersey; Governor of New Jersey; United States Senator; Justice of the Supreme Court of the United States; Minute Man, Revolutionary War.

Jonathan Dayton — Age, 26 years; business man; graduate of College of New Jersey; member of General Assembly; member of Continental Congress; speaker of General Assembly; member and speaker of the House, United States Congress; United States Senator; Dayton, Ohio, named for him; captain, Revolutionary War.

GEORGIA

William Few — Age, 39 years; lawyer; member of Executive Council; member of Georgia State Constitutional Convention; member of Legislature; member of Continental Congress; member of Georgia Ratifying Convention; United States Senator; moved to New York and was elected member of State Legislature; colonel, Revolutionary War.

Abraham Baldwin — Age, 32 years; lawyer; graduate of Yale; member of Legislature; founder and president of University of Georgia; member of Continental Congress; member of House of Representatives; United States Senator; temporary President of Senate; Baldwin County in Georgia named for him; chaplain, Revolutionary War.

CONNECTICUT

William Samuel Johnson — Age, 59 years; lawyer; member of Council of Connecticut; agent of Connecticut in England; judge of Supreme Court of Connecticut; member of Continental Congress; United States Senator; president of Columbia College.

Roger Sherman — Age, 66 years; lawyer and merchant; member of Continental Congress; member of Connecticut Legislature; judge of the Court of Common Pleas; signer of Articles of Association of the First Continental Congress;

signer of Declaration of Independence; Chief Justice of Connecticut; signer of Articles of Confederation; Mayor of New Haven; member of Congress under Constitution; United States Senator; treasurer of Yale College; one of Washington's closest advisers and highly regarded for his good judgment.

MASSACHUSETTS

Nathaniel Gorham — Age, 49 years; merchant; member of Provincial Congress; member of State Legislature; member of State Board of War; judge of Court of Common Pleas; delegate to State Constitutional Convention; on account of his legislative experience and skill as a parliamentarian, he was frequently called to the chair by Washington to preside at the Constitutional Convention; member and President of Congress.

Rufus King — Age, 32 years; lawyer and business man; graduate of Harvard; member of State Legislature; member of Continental Congress; one of the authors of the Ordinance of 1787; member of Massachusetts Ratifying Convention; moved to New York and was three times elected United States Senator from New York; twice minister to London; Federalist candidate for President of United States, 1816; noted as great orator, parliamentarian, and diplomat; aide-de-camp, Revolutionary War.

MARYLAND

James McHenry — Age, 34 years; physician; member of Maryland House of Delegates; member of Maryland Senate; member of Continental Congress; member of Maryland Ratifying Convention; Secretary of War under Washington and Adams; surgeon and major, Revolutionary War; aide-de-camp to La Fayette.

Daniel of St. Thomas Jenifer — Age, 64 years; capitalist; commissioner from Maryland to settle boundary between Maryland and Pennsylvania; Commissioner from Maryland, Mt. Vernon Conference; member of Proprietary Council under Governor Eden; member and President of the Council

of Safety; member of Continental Congress; President of the Senate of Maryland; member of Maryland Ratifying Convention; aide-de-camp, Revolutionary War.

Daniel Carroll — Age, 31 years; farmer; member of Continental Congress; signer of Articles of Confederation; member of Congress under Constitution; commissioner to locate capital of the United States.

SOUTH CAROLINA

John Rutledge — Age, 48 years; lawyer; law student at the Temple, London; member of Provincial Convention; member of Continental Congress; President of provincial government of South Carolina; appointed by Washington Associate Justice of Supreme Court of United States; appointed Chief Justice, United States Supreme Court, but not confirmed; Chief Justice of South Carolina; commander-in-chief of South Carolina militia during Revolutionary War.

Charles Pinckney — Age, 29 years; lawyer; member of provincial Legislature; member of Continental Congress; Governor of South Carolina; President of South Carolina Ratifying Convention; member of State Legislature; member of House of Representatives; United States Senator; minister to Spain.

Charles Cotesworth Pinckney — Age, 41 years; lawyer; student at the Temple, London; graduate of Oxford University; member of State Constitutional Convention; envoy to France; noted for his famous reply to Talleyrand, " Millions for defense, but not one cent for tribute "; brigadier-general, Revolutionary War.

Pierce Butler — Age, 43 years; capitalist; son of Sir Richard Butler; officer in British army in America before Revolution; joined American patriots; member of South Carolina Legislature; member of Continental Congress; director, first and second United States Banks; United States Senator; lieutenant and captain, Revolutionary War.

NEW HAMPSHIRE

John Langdon — Age, 46 years; merchant; member of Continental Congress; speaker of the Assembly of New Hampshire; judge of the Court of Common Pleas; member and speaker of State Legislature; three times President of New Hampshire; temporary President of first Senate under the Constitution; notified Washington of his election as President; Governor of New Hampshire; United States Senator; colonel, Revolutionary War.

Nicholas Gilman — Age, 32 years; lawyer; member of Continental Congress; member of House of Representatives; United States Senator; member of Washington's staff, and deputy adjutant-general, Revolutionary War.

VIRGINIA

George Washington — Age, 55 years; farmer and engineer; member of Virginia Legislature; member of Continental Congress; Commander-in-Chief of American Army; President of Constitutional Convention; first President of the United States; quite generally regarded as the greatest character in governmental history.

John Blair — Age, 55 years; lawyer; graduate of William and Mary College; student of law at the Temple, London; member of the House of Burgesses; judge of the Court of Appeals and later Chief Justice; judge of the High Court of Chancery; member of Virginia Ratifying Convention; Justice of the United States Supreme Court.

James Madison — Age, 36 years; publicist; graduate of College of New Jersey; member of the House of Burgesses; member of Committee of Safety; member of Virginia Convention of 1776; member of Continental Congress; member of Virginia Assembly; his reports of the debates in the Constitutional Convention are known as the Madison Papers; one of the authors of *The Federalist;* member of Virginia Ratifying Convention; foreign minister; member of Congress under Constitution; Secretary of State two terms; President

of the United States two terms; for more than forty years he filled almost without interruption some public office.

NEW YORK

Alexander Hamilton — Age, 30 years; lawyer; graduate of King's (Columbia) College; member of State Legislature; delegate to Annapolis Convention; leader in New York Convention for ratification of Constitution, one of the authors of *The Federalist;* first Secretary of the Treasury of the United States; Webster said: " How he fulfilled the duties of such a place, at such a time, the whole country perceived with delight, and the whole world saw with admiration. He smote the rock of the national resources, and abundant streams of revenue gushed forth. He touched the dead corpse of the public credit, and it sprung upon its feet "; regarded by many as the greatest governmental genius that history has produced; he was Washington's closest adviser; colonel, Revolutionary War.

NORTH CAROLINA

William Blount — Age, 38 years; merchant; member of Provincial Congress; member of North Carolina Legislature; member of Continental Congress; Governor of Territory south of Ohio; superintendent of Indian affairs; member of North Carolina Ratifying Convention; President of Convention to form State of Tennessee; founder of Knoxville; United States Senator; member of Tennessee Senate.

Richard Dobbs Spaight — Age, 29 years; business man; graduate of University of Glasgow; member of Legislature; member of Continental Congress; member of North Carolina Ratifying Convention; State Senator; member of Congress under Constitution; President, board of trustees, University of North Carolina; aide-de-camp, Revolutionary War.

Hugh Williamson — Age, 51 years; physician; graduate of University of Pennsylvania; studied medicine at University of Edinburgh; instructor in mathematics, University of

Pennsylvania; member of North Carolina Legislature; member of Continental Congress; member North Carolina Ratifying Convention; member of Congress under Constitution; surgeon, Revolutionary War.

DELEGATES WHO DID NOT SIGN THE CONSTITUTION

CONNECTICUT

W. Oliver Ellsworth — Age, 42 years; lawyer; graduate of College of New Jersey; member of Connecticut Assembly; member of Continental Congress; judge of Supreme Court of Connecticut; member of Connecticut Ratifying Convention; author of the first Judiciary Act; envoy extraordinary to France; United States Senator; appointed Chief Justice of the Supreme Court of the United States by Washington; was called home on family business before Constitution was signed.

NEW JERSEY

William Churchill Houston — Age, 41 years; lawyer; graduate of College of New Jersey; professor there of mathematics and natural philosophy; member of General Assembly; member of Council of Safety; secretary of Provincial Congress; member of Continental Congress; clerk of Supreme Court of New Jersey; delegate to Annapolis Convention; captain, Revolutionary War. Prevented from signing by serious illness, of which he died several months later. On one occasion he had himself carried into the Convention to make a quorum.

GEORGIA

William Pierce — Age, 47 years; merchant; member of Continental Congress; made interesting character sketches of the delegates in the Constitutional Convention and re-

ferred to the Convention as "the wisest Council in the world"; major, Revolutionary War; received thanks of Congress and presented with a sword for gallantry in action. Absence in New York prevented his signing Constitution.

William Houston — Age, 32 years; lawyer; student of law at the Temple, London; member of Continental Congress.

NORTH CAROLINA

William Richardson Davie — Age, 31 years; lawyer; graduate of College of New Jersey; member of Legislature; member of State Ratifying Convention, his influence securing adoption of Constitution by North Carolina; Governor of North Carolina; envoy to France; founded University of North Carolina; colonel, Revolutionary War, and won title of "Hero of Charlotte"; sold his estate to equip a body of cavalry; brigadier-general, regular army, by appointment of President Adams. Called home by State duties before Constitution was signed.

Alexander Martin — Age, 47 years; publicist; graduate of College of New Jersey; member of Colonial Assembly; member of First and Second Provincial Congresses; member of North Carolina Senate; Governor of North Carolina; president, board of trustees, University of North Carolina; colonel, Revolutionary War. Called home by State duties before Constitution was signed.

VIRGINIA

Edmund Randolph — Age, 34 years; lawyer; graduate of William and Mary College; member of Committee of 1776; Mayor of Williamsburg; member of Continental Congress; Attorney-General of Virginia; Governor of Virginia; delegate to Annapolis Convention; it was his motion that eliminated the word "slavery" from the Constitution; in the Virginia Ratifying Convention he advocated adoption of the Constitution; Attorney-General and Secretary of State in Washington's Cabinet; Washington's aide-de-camp, Revolutionary War.

George Mason — Age, 61 years; planter; member of Committee of Safety; delegate to first Virginia Constitutional Convention; member of Legislature; elected to Continental Congress but did not serve; member of Virginia Ratifying Convention; elected United States Senator but declined.

James McClurg — Age, 40 years; physician. Graduate of William and Mary College; studied in Paris and London; member of Executive Council of Virginia; physician, Revolutionary War.

George Wythe — Age, 61 years; lawyer; graduate of William and Mary College; member of House of Burgesses; judge of High Court of Chancery; Chancellor of the Court of Equity; signer of the Declaration of Independence; speaker of House of Delegates; member of Continental Congress; Professor of Law at William and Mary College.

NEW YORK

Robert Yates — Age, 49 years; lawyer; member of New York Provincial Congress; member of State Council of Safety; member of committee that drafted the first Constitution of New York; member of State Constitutional Convention; Chief Justice of New York State Supreme Court.

W. John Lansing — Age, 33 years; lawyer; member of State Assembly and speaker; member of Continental Congress; member of New York Ratifying Convention; Chancellor of New York, succeeding Robert R. Livingston; declined nomination for Governor of New York; Chief Justice of New York State Supreme Court.

MASSACHUSETTS

John Caleb Strong — Age, 42 years; lawyer; educated at Harvard; member of Legislature; member of committee of correspondence and safety; one of the framers of the Constitution of Massachusetts; member of the Council of the State; Governor of Massachusetts; member of Massachu-

setts Ratifying Convention; State Senator; one of first two United States Senators from Massachusetts.

Elbridge Gerry — Age, 43 years; merchant; graduate of Harvard; member of Continental Congress; signer of Declaration of Independence; member of Massachusetts Legislature; special envoy to France; member of committee to arrange treaty of peace with Great Britain; member of Congress under the Constitution; Governor of Massachusetts; Vice-President of the United States.

MARYLAND

John Francis Mercer — Age, 28 years; lawyer; graduate of William and Mary College; member of Continental Congress; member of State Legislature; member of Maryland Ratifying Convention; member of Congress under the Constitution; Governor of Maryland; lieutenant-colonel, Revolutionary War.

Luther Martin — Age 43 years; lawyer; graduate of College of New Jersey; delegate to Annapolis Convention; Attorney-General of Maryland.

Only forty-two members were present on September 17 when the Constitution was signed, and Gerry, Mason, and Randolph were the only three who refused to sign.

Many people seem to have the impression that John Hancock, John Adams, Thomas Jefferson, and Patrick Henry were delegates to the Constitutional Convention. John Adams was in England, and Jefferson was in France during the time that the convention was in session. Patrick Henry was appointed a delegate but refused to serve, and John Hancock was not appointed as a delegate to the Convention by his State.

APPENDIX II

SUGGESTIONS FOR FURTHER STUDY

This book does not pretend to be an exhaustive treatise on the great subject with which it deals. It has sought only to indicate the most important and essential elements necessary for a better understanding of the background, the plan, the purpose, and the meaning of the Constitution. Doubtless many students and readers will desire to continue their study of the subject.

Unfortunately, much that is written regarding the early history of this country and the development of our government is inaccurate and confusing, and much of the comment that has been made regarding the Constitution is misleading and not based upon facts.

A very important question, therefore, is: To what sources shall students go for authentic information on the Constitution? After the works of dubious merit have been eliminated there still remain some of unquestioned authority. For our purposes it will be sufficient to list the few which should be recommended above all others:

1. *Life of Washington.* By John Marshall. (Five volumes.) Citizens' Guild Publication Office, 48 West Forty-seventh Street, New York.

In five volumes, of about five hundred pages each, John Marshall, the greatest interpretive mind that this country has produced, has told the story of the life of George Washington from intimate knowledge and access to authentic sources of information. It is more than a biography; it is a most accurate account of the early history of this country.

The publisher's description contains the following:

In his will George Washington bequeathed to his favorite nephew, Bushrod Washington, all the personal letters, private

papers and secret documents which he had accumulated during a lifetime of service to his country.

When the bequest became known, literary men from all parts of America applied for the commission to write the authorized biography of our First President.

Bushrod Washington turned from them all to select a man who had been his uncle's friend, neighbor and companion-in-arms, and persuaded him to undertake the work. To John Marshall he handed over all the precious papers, state and private, on which the authorized biography would be based, and from which it would derive its accuracy, honesty and authority.

Marshall spent seven years preparing the first edition, and fifteen years revising the work to the last detail. In all he gave twenty-two years to bringing this masterpiece to perfection.

In these powerful pages you follow the youthful Washington through the almost trackless forests. You hear him accepting the command of the Continental armies from Congress with humility and reluctance. You watch him rebuilding a shattered, chaotic country, becoming our first President, laying down the lines of policies which wisdom and experience alike have bidden us follow ever since.

Volume I is a survey of the events leading up to the American Revolution. It begins with the story of the first English settlements in America, at Jamestown, Virginia, and at Plymouth, Massachusetts, and sketches the settlement of the other colonies which were destined to form the nucleus of the United States. The progress of colonial history is described in a vivid and forceful way which makes those stirring days live again.

Marshall explains the causes of the growing discontent with the methods of the British government, outlines the grievances of the colonies, and passes in review the events leading up to the first serious differences between the colonists and the British government and the procedure resulting from those differences up to 1775.

Volume II opens with the birth of Washington, giving an account of his ancestry, his family and friends, and the scenes of his boyhood. It tells of Washington as a young surveyor, as a lieutenant-colonel playing a conspicuous part in the warfare on the western frontier, as commander-in-

chief of the American forces in 1775, and follows him through the trying years of the Revolution, with its mingled victories and defeats up to 1778.

Volume III traces the important events and the activities of the leading men of the momentous period from 1778 to 1781, in the conduct of the Revolutionary War and the adoption of the Articles of Confederation.

Volume IV tells of the successful conclusion of the Revolutionary War, the terms of peace, and Washington's retirement to Mount Vernon. Then follows the story of the important steps leading up to the Constitutional Convention — the famous Mount Vernon Conference of 1785, held at Washington's home, which led to the Annapolis Convention of 1786, which in turn led to a call for the Constitutional Convention of 1787.

Marshall then shows how Washington's acceptance of the call to the presidency of the Constitutional Convention inspired that public confidence without which its labors might have been in vain. The story of the Convention of 1787 and its work is next related, followed by a vivid analysis of the events leading up to Washington's election as President, with a most interesting account of his first administration, depicting the activities of those who supported and those who opposed Washington's efforts.

Volume V tells of his second term as President with its perplexing problems, especially in foreign affairs, as the French Revolution was setting all of Europe aflame. Finally, Marshall tells of Washington's last retirement to Mount Vernon, and of his peaceful passing into the great beyond, full of years and honors, amid the mourning of a whole nation.

In each of the five volumes the author devotes the last few pages to historical notes which shed much light on those eventful days and on the men who played conspicuous parts in that great epoch of our history.

Washington was truly the central figure in preparing the way for the Constitution, in its making, and in its early administration. In this great work Marshall tells the story not only of Washington's life, but of that momentous period, picturing vividly Washington's intimate contact with nearly

every man who played a conspicuous part in laying the foundation of the Republic.

2. *Records of the Federal Convention of 1787.* By Max Farrand. (Three volumes.) Yale University Press, New Haven, Connecticut.

In editing *The Records of the Federal Convention of 1787,* Dr. Farrand performed a highly valuable service for students of the Constitution. The work is a masterpiece of patient labor and painstaking research into all the available records of the Convention. It is a valuable and masterly contribution by an industrious and intelligent scholar, gifted with a faculty for detail and logical compilation.

Of this great work the *New York Times* said:

Professor Farrand's fine work will remain the authoritative history of the Federal Convention. It is a worthy work, well done.

The *Chicago Evening Post* said:

This is the most ambitious piece of work yet attempted on this subject. It is worthy of the author, of the great university which publishes it, and of the subject, which in importance transcends most others in our national history.

The *American Political Science Review* said:

In these volumes all the contemporaneous accounts of the Federal Convention are presented with such ingenuity and simplicity that the editor is entitled to the enthusiastic thanks of all persons who wish to ascertain in the most authoritative way what was done by each member of the convention and what were the steps in the development of each clause of the Constitution.

Volume I contains 631 pages and comprises:

A preface, in which Dr. Farrand sets forth the reasons for undertaking the work and the purposes to be achieved, and expresses his indebtedness and appreciation to numerous librarians and scholars for their coöperation and encouragement.

An introduction, in which he outlines how the Constitu-

tional Convention was set in motion and conducted; how the record was kept; how the records were placed for safekeeping in the hands of Washington, who in 1796 deposited them with the Secretary of State, subject to the order of Congress; how in 1818 John Quincy Adams took charge of the publication of the Journal of the Convention, and how difficulties were encountered in the undertaking.

A brief statement regarding the memoranda kept by James Madison, known as the " Madison Papers," which shed much light on the proceedings of the Convention; also statements regarding the memoranda kept by Delegates Yates, King, McHenry, Pierce, Paterson, Hamilton, Pinckney, and Mason, all of which contain valuable material for supplementing the records of the Convention, followed by an interesting account of the work of the Committee on Detail and the Committee on Style, and a brief summary of the supplementary material collated in Volume III.

A record, day by day, of the proceedings of the Constitutional Convention from May 14 to July 13, including the minutes of the Journal and supplemented by memoranda of the various delegates, which are included in the record of the proceedings of the day on which the memoranda were made.

Volume II contains 667 pages and is a continuation, day by day, of the minutes of the Journal, supplemented by the memoranda of the various delegates from July 14 to September 17.

In this volume are found the reports of the Committee on Detail and the Committee on Style, showing the first draft and the changes that were made in the successive drafts of the Constitution, until it was evolved into the admirable form in which it was signed on September 17.

There is also a full draft of the impressive resolution and the unusual letter with which the Constitution was referred by the Convention to Congress for submission to the States for ratification.

Volume III contains 685 pages, comprising Appendixes A to F and two indexes.

Appendix A is classified as supplementary records of proceedings in the Convention. There are four hundred and three interesting side lights on the Constitution, covering the

period from February 21, 1787, to March, 1836. Here are to be found the most intimate correspondence of the important men of that historic period; extracts from contributions to the press; public orations; debates in State legislatures and conventions, and debates in Congress; interesting anecdotes of occurrences in the Convention; entries made by delegates in their diaries at various times; just the information needed as an aid to understanding the Constitution.

Appendix B contains a full list of the delegates and the exact wording of the credentials issued by their respective States, authorizing them to serve in the Convention. The credentials evidence much careful thought by the State authorities in giving instructions.

Appendixes C to F comprise the plans of government submitted to the Convention: Appendix C, the Virginia Plan or Randolph Resolutions; Appendix D, the Pinckney Plan; Appendix E, the New Jersey Plan or Paterson Resolutions; Appendix F, the Hamilton Plan.

Then follows a printed copy of the Constitution, in which every clause is followed by an index of references, intended to include every item in the three volumes explanatory of the development of those clauses, so that it is possible for the reader to trace the evolution of any clause in the Constitution to all the records of the Convention pertaining to that clause.

The general index takes up thirty-five large pages in fine print, giving alphabetical reference to more subjects pertaining to the Constitution than will be found in any other index on the subject.

This review of *The Records of the Federal Convention* is not at all an adequate portrayal of the value and instructive contents of that momentous work, in which Dr. Farrand has welded together a wonderfully complete, clear, and accurate record of the greatest event in American history.

3. *The Federalist.* By Hamilton, Madison, and Jay. (One volume.) E. P. Dutton and Company, 681 Fifth Avenue, New York; Scott Foresman and Company 623 South Wabash Avenue, Chicago.

No study of the Constitution can be in any sense complete

without a thoughtful reading of the great work called *The Federalist*.

After the Constitution was submitted to the State conventions for ratification, interest was at fever heat. Some of those who were opposed to the Constitution prepared and circulated pamphlets while others made public addresses opposing ratification of the Constitution.

As related on page 115, Alexander Hamilton, in order to meet opposition effectively, persuaded John Jay and James Madison to join him in the preparation of a series of articles explaining the purpose and meaning of the Constitution and providing reasons for its adoption in the interest of the public welfare. It was an age of great statesmen, but it is doubtful if among them all there were three other men so well qualified to analyze, interpret, and defend the Constitution as Hamilton, Madison, and Jay.

These articles, eighty-five in number, appeared in the press from day to day and were all signed "Publius." In them all phases of the proposed Constitution were discussed in minutest detail. So forcibly and clearly did they present the meaning and merit of the Constitution that opposition was overcome and ratification secured.

Fortunately for the country and for posterity the eighty-five *Federalist* papers were collected in book form, and numerous editions have been printed by various publishers. *The Federalist* is a classic in political science. It is not only the best analysis, interpretation, and exposition of the Constitution, but it forms the ablest treatise on the problems and science of government that was ever written.

Of *The Federalist* Washington said:

> When the stringent circumstances and fugitive performances which attend this crisis shall have disappeared, that work will merit the notice of posterity, because in it are candidly discussed the principles of freedom and the topics of government which will always be interesting to mankind so long as they shall be connected in civil society.

John Marshall said:

> To expose the real circumstances of America, and the dangers which hung over the Republic, to detect the numerous misrepre-

sentations of the Constitution, to refute the arguments of its opponents, and to confirm, and increase, its friends, by a full and able development of its principles, three gentlemen, distinguished for their political experience, their talents, and their love of union, gave to the public a series of essays which first appeared in the papers of New York and which, collected under the title of *The Federalist,* will be read and admired when the controversy in which that valuable treatise on government originated shall be no longer remembered. It is a complete commentary on our Constitution, and is appealed to by all parties on the questions to which that instrument has given birth.

Of the eighty-five papers, fifty-one are credited to Hamilton, fourteen to Madison, five to Jay, and three to Hamilton and Madison jointly, while the authorship of the remaining twelve is still in doubt. The papers were originally addressed " To the people of the State of New York," but were in reality directed to the entire American people.

The papers begin with a general discussion showing the importance of the Union to the welfare of the country. The seriousness of the crisis which had arrived when the Constitution was submitted to the States was clearly perceived, as is evident from the opening paragraph of *The Federalist,* Number 1, written by Hamilton, in which he said:

After an unequivocal experience of the inefficiency of the subsisting Federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitution on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind.

Every one of the *Federalist* papers is so full of material throwing light on the Constitution that it is difficult to refrain from quotations which would soon overflow the limits of this lesson. We must go to *The Federalist* itself, in which innumerable topics on the subject of government are discussed in a most able and interesting manner and the fundamental problems of political science are analyzed.

The various experiments in confederation, from the time of the ancient Greeks down to modern times, are concisely set forth, and the causes of their failure made clear. The characteristics of the Amphictyonic Confederacy, the Achaean League, the Holy Roman Empire, the union of Swiss Cantons, and the United Netherlands are carefully explained and warnings are found in their weaknesses and defects.

With this historical background, *The Federalist* shows how the Articles of Confederation failed to establish a proper mechanism of government, and how the plan provided by the Constitution would furnish the cure for the governmental ills of the country.

A number of papers are devoted to such general topics as taxation, the common defense, etc. Number 10 and Numbers 37 to 40 of *The Federalist* are devoted to a discussion of the form of government and show conclusively that the Constitution provided for a strictly representative form of government, which they called a Republic. Numbers 44 to 46 treat of the relation of States and nation. Numbers 47 to 51 explain the structure of the government as provided by the plan of the Constitution. Numbers 52 to 66 take up all phases of the proposed legislative department. Numbers 67 to 77 are a detailed discussion of the proposed executive department, as are Numbers 78 to 83 of the proposed judicial department. Numbers 84 and 85 are a reply to general and miscellaneous objections that were made to the Constitution.

The Federalist is one of our most priceless governmental heritages. It was the first authoritative interpretation of the Constitution and still remains the best. It has rightly been characterized as " a permanent reservoir of political wisdom, to be drawn upon as fresh problems arise." It has, time and

again, been accorded recognition in decisions of the United States Supreme Court in determining cases involving the interpretation of the Constitution.

Every thoughtful American owes it as a patriotic duty to familiarize himself with the masterly discussions of *The Federalist* by an earnest study of that incomparable treatise on the Constitution and the science of government.

Every possible effort should be made to make the three great works suggested above available in public and school libraries for students of the Constitution. It would be difficult to enumerate the number of sources in which research work would have to be made in order to acquire the information contained in these volumes.

4. *Annals of Congress.* (Volume I.)

This is a record of the proceedings of the First Congress. Nineteen of the thirty-nine signers of the Constitution were members of this Congress, and it enacted statutes to carry the provisions of the Constitution into operation. It was probably the greatest legislative body the world has known, and many of the statutes enacted by it are masterpieces of legislative wisdom. The record of its proceedings throws much light on the practical workings of the Constitution and will enable one to acquire a discriminating understanding of the distinction between what are properly constitutional provisions and what are properly statutory enactments.

5. Some of John Marshall's great decisions interpreting the Constitution, especially Marbury vs. Madison, 1803; Fletcher vs. Peck, 1810; Dartmouth College case, 1819; and Brown vs. Maryland, 1827.

6. The Kentucky and Virginia Resolutions of 1798.

7. The discussions which occurred during President Jackson's administration regarding the South Carolina controversy, especially those which took place in the United States Senate between Senators Robert Y. Hayne, John C. Calhoun, and Daniel Webster.

8. Lincoln's *Cooper Institute Address.* Delivered in New York February 27, 1860.

There are numerous other excellent and more recent publications that would be helpful, but a knowledge of the works suggested in this appendix will enable the student to detect with exacting discrimination any misstatements or misinterpretations regarding the Constitution.

APPENDIX III

THE CONSTITUTION OF THE UNITED STATES

(NOTE: Those parts of the Constitution which have been modified or supplanted by amendment appear here in italics. Parts now obsolete appear in brackets.)

PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I

THE LEGISLATIVE DEPARTMENT

Section 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. (1) The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

THE HOUSE OF REPRESENTATIVES

(2) No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.[1]

[1] See Amendment XIV, Section 3.

(3) Representatives and direct taxes (except income) [2] shall be apportioned among the several States which may be included within this Union according to their respective numbers, *which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years,* and excluding Indians not taxed, *three-fifths of all other persons.*[3] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; [and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia, 3.] [4]

(4) When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies.

(5) The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

THE UNITED STATES SENATE

Section 3. (1) The Senate of the United States shall be composed of two Senators from each State, chosen by the *Legislature* [5] thereof, for six years; and each Senator shall have one vote.

(2) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so

[2] Insert. See Amendment XVI.
[3] See Amendment XIII and Sections 1 and 2 of Amendment XIV.
[4] Obsolete since 1793.
[5] See Amendment XVII, Paragraph 1.

that one-third may be chosen every second year; *and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*[6]

(3) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.[7]

(4) The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

(5) The Senate shall choose their other officers, and also a President pro tempore in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(6) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

(7) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

ORGANIZATION OF CONGRESS

Section 4. (1) The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, *except as to the places of choosing Senators.*[8]

(2) The Congress shall assemble at least once in every

[6] See Amendment XVII, Paragraph 2.
[7] See Amendment XIV, Section 3.
[8] See Amendment XVII.

year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5. (1) Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each house may provide.

(2) Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member.

(3) Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

(4) Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section 6. (1) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

(2) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Section 7. (1) All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills.

(2) Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return; in which case it shall not be a law.

(3) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

POWERS VESTED IN CONGRESS

Section 8. The Congress shall have power:

(1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

(2) To borrow money on the credit of the United States.

(3) To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

(4) To establish an uniform rule of naturalization and

uniform laws on the subject of bankruptcies throughout the United States.

(5) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

(6) To provide for the punishment of counterfeiting the securities and current coin of the United States.

(7) To establish post-offices and post-roads.

(8) To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

(9) To constitute tribunals inferior to the Supreme Court.

(10) To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

(11) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

(12) To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

(13) To provide and maintain a navy.

(14) To make rules for the government and regulation of the land and naval forces.

(15) To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(16) To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

(17) To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; And

(18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and

all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

RESTRAINTS FEDERAL AND STATE

Section 9. [(1) The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.] [9]

(2) The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

(3) No bill of attainder or ex post facto law shall be passed.

(4) No capitation or other direct tax (except income) [10] shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

(5) No tax or duty shall be laid on articles exported from any State.

(6) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another, nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

(7) No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

(8) No title of nobility shall be granted by the United States. And no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state.

Section 10. (1) No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of

[9] Obsolete since 1808.
[10] Insert. See Amendment XVI.

attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

(2) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

(3) No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

ARTICLE II

THE EXECUTIVE DEPARTMENT

Section 1. (1) The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

(2) Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.[11]

(3) *The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate*

[11] See Amendment XIV, Section 3.

and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest of the list the said house shall, in like manner, choose the President. . . . But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. . . . But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.[12]

(4) The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

(5) No person except a natural born citizen [or a citizen of the United States at the time of the adoption of this Constitution] [13] shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.[14]

(6) In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

[12] Supplanted by Amendment XII.
[13] Obsolete.
[14] See Amendment XIV, Section 3.

(7) The President shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

(8) Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2. (1) The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior offices as they think proper in the President alone, in the courts of law, or in the heads of departments.

(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which will expire at the end of their next session.

Section 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagree-

ment between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4. The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III

THE JUDICIAL DEPARTMENT

Section 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2. (1) The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; *between a State and citizens of another State;*[15] between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, *citizens, or subjects.*[15]

(2) In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such ex-

[15] See Amendment XI.

ceptions and under such regulations as the Congress shall make.

(3) The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section 3. (1) Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

(2) The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

Interstate and Federal Relations

ARTICLE IV

RELATION OF THE STATES TO EACH OTHER

Section 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section 2. (1) The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

(2) A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

(3) [No person held to service or labor in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such

service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.] [16]

RELATION OF THE UNITED STATES TO STATES AND TERRITORIES

Section 3. (1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

(2) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

General Provisions

ARTICLE V

PROVISION FOR AMENDING THE CONSTITUTION

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; pro-

[16] Obsolete.

vided [that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and] [17] that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI

NATIONAL DEBTS

(1) All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

SUPREMACY OF THE NATIONAL GOVERNMENT

(2) This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

PLEDGE — NO RELIGIOUS TEST

(3) The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

[17] Obsolete.

AMENDMENTS

Article I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Article III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

Article IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property,

without due process of law; nor shall private property be taken for public use, without just compensation.

Article VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law.

Article VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Article XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or

prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

(This amendment modifies Paragraph I, Section 2, of Article III.)

Article XII

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest num-

bers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

(This amendment supplants Paragraph 3, Section 1, of Article II.)

Article XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Article XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the

number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

(Sections 1 and 2 of this amendment modify Paragraph 3, Section 2, of Article I.)

Section 3. No person shall be a Senator, or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

(Section 3 of this amendment supplements Paragraph 2, Section 2, of Article I; Paragraph 3, Section 3, of Article I; Paragraph 2, Section 1, of Article II; and, Paragraph 5, Section 1, of Article II.)

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Article XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

(This amendment supplements Paragraph 1, Section 2, of Article I.)

Article XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

(This amendment modifies Paragraph 3, Section 2, of Article I and Paragraph 4, Section 9, of Article I.)

Article XVII

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

(Paragraph 1 of this amendment modifies Paragraph 1, Section 3, of Article I and Paragraph 1, Section 4, of Article I.)

(2) When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

(Paragraph 2 of this amendment modifies Paragraph 2, Section 3, of Article I.)

(3) This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Article XVIII

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating

liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Article XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

(This amendment supplements Paragraph 1, Section 2, of Article I.)

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